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SPEECHES

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BY

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# PART I.

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SPEECHES IN CONGRESS,

FROM THE

YEAR 1825 TO THE YEAR 1835.



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## PART I.

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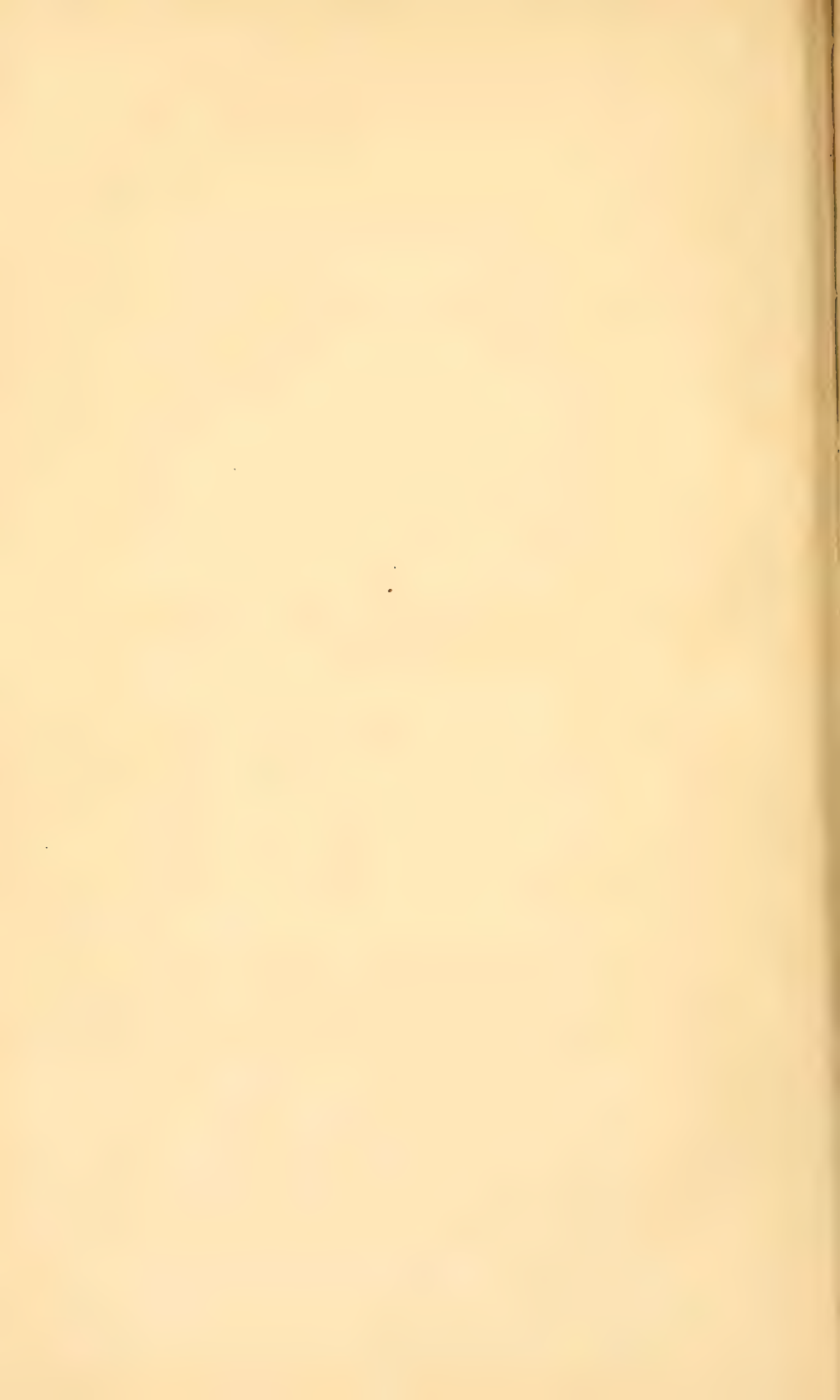
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REVOLUTIONARY SOLDIERS.





## REVOLUTIONARY SOLDIERS.

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HOUSE OF REPRESENTATIVES, APRIL 25th, 1826.

THE Bill and Amendment for the Relief of the Surviving Officers and Soldiers of the Revolutionary Army being under consideration in Committee of the Whole, Mr. Webster in the Chair,

Mr. Sprague addressed the Committee as follows :—

MR. CHAIRMAN: Enough, perhaps, has already been said in behalf of the Officers of the Revolution. I propose to say something for the Soldiers also. I am in favor of the amendment which has just been offered by the gentleman from Massachusetts, (Mr. Reed.) I believe that the soldiers of the revolution have a just claim upon us for a much larger amount than any that has been proposed to be given to them. We owe them a just debt, and it arises from our violations of our engagements to them.

In the first place, as to their wages. We were bound to have paid them *in money*. This we did not do, but delivered them merely paper, or certificates of debt, which were not money; they were not the measure of value, but their own value fluctuated, according to the varying opinions of the times. They were an article of trade in the market, and, like every other kind of merchandise, their real value was their market price; which was from an eighth to a tenth of their nominal amount. The soldier, then, was compelled to receive an article at eight or ten times its real worth, so that, in fact, he obtained, at most, but an eighth part of his wages. I say at most; at times, indeed, it was far

less. The gravest of our historians has told us, that, at one time, such was the depreciation, that the pay of a captain would not have furnished the shoes in which he marched against the enemy, and many expended their little all in supplying themselves with the humble accommodations which their stations required. We have thus paid to the soldiers but a small fraction of their wages. Our country was in the condition of an insolvent debtor, and made but a small dividend among our creditors. Why should we not now, when we have the abundant means, make payment of the residue? It has been said that we should pay nothing now, because it has cost the United States the full nominal amount, as the government eventually redeemed the paper. If it were so, what matters that to the soldier? If a creditor is offered an article at ten times its value, in discharge of his demand, is it of any consequence to tell him how much it cost the debtor? Suppose we had compelled the soldier to take any other specific article, at such an enhanced price, and he had remonstrated against being thus defrauded, would it be any answer to say to him, "We purchased the article on credit, and our credit was so bad that it cost us much more than it was worth"?

Sir, that which we did deliver, in payment, rested wholly upon our credit; if that credit was so low that it cost us ten times its real value, is the whole loss to be thrown upon the soldier? Was it his fault that we did not discharge our duty and sustain our credit?

But, again, it is objected, if he had retained the paper long enough, he might have obtained full payment. That is, if he had kept the article on hand, for a series of years, it might have risen in value. And what if it had? Does not every one know that the price which a thing bears when it is received in payment determines the amount of the debt thereby discharged, and that its subsequent rise or depression cannot increase or diminish it? And besides this, are we to say to the poor soldier, who expended his last farthing in our defence, who could not even reach his home without charity, and was compelled to part with his certificate to save himself and his children from starvation, shall we say to him, "You ought to have kept your paper ten long years, and then you might have obtained the full amount"? It is but a mockery of his wrongs to tell him—if you had done what was impossible you might have been paid. I will not pause to esti-

mate the amount of loss sustained by depreciation, because the reflection of a moment must satisfy every one, that it very far exceeds the sums named in the bill and the amendment.

But, sir, independently of the depreciation, we have never yet paid the full amount of the paper or certificates which we compelled the soldier to receive. It is well known that, in the funding of the public debt, which took place nearly ten years after the close of the war, and more than ten years after much of the debt was contracted, the interest was not paid, but funded on interest of three per cent. payable at the pleasure of the Government. The principal was not paid; but two-thirds was funded at an interest of six per cent., and interest on the other third was deferred for ten years. From this statement merely, the loss to the creditor does not appear to be great; but in order to exhibit it truly, let us take an example, and compute the loss sustained by the holder of paper for one thousand dollars. The simple interest for ten years was six hundred dollars, which was funded at three per cent. Such was the pressure of the times, and the high rate of interest at that period, that it has been estimated that the amount thus funded was worth but fifty per cent. To be within bounds, suppose the difference to be one-third, then the six hundred dollars, thus funded, was worth but four hundred dollars, and the loss was two hundred dollars.

One-third of the principal bore no interest for ten years. Simple interest for that time on one-third of a thousand dollars, amounted to two hundred dollars more, making the loss four hundred dollars. Simple interest upon this sum, for thirty years, exceeds seven hundred dollars, which, added to the four hundred, makes the loss which the holder of paper to the amount of one thousand dollars has suffered, by the mode and time of payment adopted by the Government, to exceed eleven hundred dollars—so that the sum which we withheld, out of that which we had solemnly promised in writing, with simple interest only, is now more than the original amount of the debt.

Again, sir, the soldier had a right to demand money of us, and that too at a time when he was in the utmost distress for it. If we could not pay it, we should at least have put the debt on interest, payable quarterly, as a funded debt, from the beginning. This we could have done; and, as we did not, we are now bound to place him in as good condition as he would have been in, if we

had performed our duty. And, if we had paid interest quarterly, could he not have realized as much as interest compounded annually? Would not every honorable man pay so much to an individual whom he had thus wronged? And if gentlemen will make the computation, by this rule, they will find that we should now pay more than three thousand dollars to every one who was an original creditor to the amount of one thousand! A startling amount truly; Gentlemen, however, need not be alarmed; they are not asked for such a sum, nor anything like it. Only a small part, even of the simple interest, is now requested. But I thought it not amiss to suggest to them how much might be demanded, upon principles, which it would be difficult, in fairness, to contest. So much for the loss to our creditor. Was there not a corresponding gain to ourselves? I know it has been said, that we paid and redeemed our paper. But, sir, it is matter of history, that, by the mode of payment, as it has been called, or rather, by the non-payment of our domestic debt, we saved the full sum of thirteen millions of dollars, out of the sum which we had expressly promised—out of the face of our bond! If this sum had been paid, or funded then, we must have paid interest upon it until the present time, for we have never yet been out of debt; and our national finances are now in a better condition, by at least fifty millions of dollars, than they would have been if we had fully paid our domestic debt. We have then, in our hands, fifty millions of dollars which belong to our creditors, and which sum we have no right to retain, if they come forward to claim it. And now, the most meritorious of those creditors ask for less than one year's interest of that sum, and yet we are told that we ought to reject their demand!

The soldiers of the revolution might present still further claims upon us. When we enlisted them into our service, we entered into other engagements to them beside the payment of their wages. We bound ourselves to furnish them suitable food, clothing, and tents, and medicines, and all the necessities of a soldier's life. How was this stipulation fulfilled? Let our history—let Washington himself, answer this question. How often, and how feelingly, do they repeat and reiterate the wants and sufferings of the army, through our violation of our engagements! They declare that “actual famine” existed in the army; that the soldiers had been “half the time without provisions,” and had “no magazines



nor money to form them;" that they "were bereft of every hope from the Commissaries;" and, at one time, the soldiers ate every kind of horse food but hay, and "were perpetually on the point of starving." As to clothes, they declare, "that neither the bodies nor feet of the soldiers were protected from the frosts and cold of the inclement season, and after being exposed through the day to the rigors of winter, night brought no relief;" that they "were without clothes, and without blankets, and, at one time, amid the frosts of winter, nearly three thousand men were barefoot in camp, besides the number confined to the hospitals for want of shoes." And Washington describes their distress in these emphatic words—"Our sick, naked! Our well, naked! Our unfortunate men in captivity, naked!"

Such, we are told by the highest authorities, was the lamentable deficiency of the primary articles of food and clothing; and that, as to all minor necessities, they were almost unknown. They tell you that, in every department, the utmost distress prevailed, and that many, very many, sunk under their accumulated hardships—that, from incessant toil, from insufficient and unwholesome food; from want of vegetables, want of tents, and want of clothes, great sickness prevailed; the hospitals were crowded, and, the medical department being unprovided, great mortality followed, and unusual numbers were carried from the hospitals to the grave. Do not sufferings like these deserve some consideration? Will not the merest niggard of justice, calculating only dollars and cents, admit that they have a right to demand from us the value of the food and clothing and other necessities which we wrongfully withheld? And will not every mind, imbued with sentiments of moral right, spontaneously declare, with Washington, that compensation ought also to be made to them, for the tortures which we inflicted by our neglect and violation of our duty? The amount I will not attempt to estimate. Let gentlemen recur to our revolutionary struggle, and consult their own hearts and their own judgments, and then say what is due to the soldier, who, feeble and sinking for want of food and sustenance, marched, during the day, through snow and ice on naked feet, exposed unclad to the winter's cold, with no resting-place at night but the earth, and no covering but the skies; passing through sufferings which human nature could not sustain unbroken; and falling a prey to pestilence, more deadly and far more terrific than the sword of the



enemy. Cheerfully did he face the cannon's mouth, and dare a soldier's death on the field of honor; but what rewards, in your power to bestow, would have purchased his consent to meet all the loathsome forms of disease—to breathe the hospitals' nauseous contagions, or the corruption of a prison ship, and linger through protracted tortures, unheeded and unknown, toward an inglorious death! Let him, who has felt the withering hand of disease, say what atonement we should make for causing horrors like these.

I have thus, sir, endeavored to state the grounds upon which I contend that injustice has been done to the soldiers of the revolution. In the first place, making payment of their wages in depreciated paper. Secondly, withholding a part, even of the nominal amount, which we had promised; and thirdly, other breaches of contract on our part, causing peculiar privations and sufferings to them.

And now I would ask, sir, who are the men whom we have thus grievously wronged? Are they mere hirelings to whom we should be content to weigh out justice by the grain and scruple, or are they our greatest earthly benefactors? They were actuated by higher and purer motives than any soldiers that ever assembled, and exhibited a spectacle of unyielding fortitude, and self-denying magnanimity, unequalled in the annals of mankind. Others, under a momentary enthusiasm, or in the hurrying fever of battle, have fought as desperately. Others, when far from succor and from their country, have endured and persevered for individual self-preservation. But where, in all history, is an example of a soldiery, with no power to control them, who, in a single day, perhaps, could have reached their homes in safety, voluntarily continuing to endure such protracted miseries, from no motive but inward principle and a sense of duty? They were imbued with a loftier and more expanded spirit of patriotism and philanthropy, and achieved more for the happiness of their country, and of mankind, than any army that ever existed. And where is there an example of moral sublimity equal to their last act of self-devotion, after peace and independence had been conquered? That army who had dared the power, and humbled the pride, of Britain, and wrested a nation from her grasp; that army, with swords in their hands, need not have sued and begged for justice. They could have righted their own wrongs, and meted out their own rewards. The country was prostrate before them;

and, if they had raised their arms, and proclaimed themselves sovereign, where was the power that could have resisted their sway? They were not unconscious of their strength, nor did they want incitements to use it.

The author of the celebrated Newburg letters told them, Your country disdains your cries, and tramples upon your distresses. He conjured them, in the most eloquent and energetic language, to exert the power which they held, and never to lay down their arms until ample justice had been obtained. He warned them, if once disarmed and dispersed, your voice will sink; your remonstrances will be unheard; you will grow old in poverty, and wade through the vile mire of dependency. What was their answer, when thus urged and thus tempted? With one voice, they spurned the dark suggestions, voluntarily surrendered their arms, and submitted themselves unconditionally to the civil power. It was then, that their illustrious commander said, in the words read by the gentleman from Pennsylvania yesterday,—“Had this day been wanting, the world had never seen the last stage of perfection, which human nature is capable of attaining.” They quietly dispersed and departed for their homes, in every part of your wide domain, unrewarded, pennyless, carrying with them nothing but the proud consciousness of the purity and dignity of their conduct, and a firm reliance upon their country’s honor, and their country’s faith. And what return has been made to them? Have they not found your high-blown honor a painted bubble, and your plighted faith a broken reed? Have not those dark predictions of your ingratitude, which you then indignantly repelled, as slanders foul and false, at which you were ready to exclaim, “Is thy servant a dog, that he should do this thing?” have they not been too much realized? Have not the petitions of the soldiers of the revolution been disregarded? Have they not grown old in poverty? Do they not now owe the miserable remnant of their lives to charity? Sir, if we change not our conduct towards them, it must crimson with shame the front of history.

I will here notice some objections which have been urged against the bill. The gentleman from North Carolina, (Mr. Alston,) and the gentleman from Tennessee, (Mr. Mitchell,) have insisted, that there are others who have equal claims with those who composed the army of the revolution; such as served in civil offices, or furnished articles of necessity to the government. In addition to

what I have already said, it would not be difficult to show, that there are many points of clear and marked discrimination between the cases. But I will not consume the valuable time of this Committee, by running parallels, or making comparisons which would be useless ; for, if it be, as the gentlemen contend, it cannot affect the argument. I have endeavored to show, and, in my humble judgment, have shown, that we owe to the soldiers of the revolution a just debt. The gentlemen say, that we owe others also. What, then, is the inference ? They say, that we should pay neither. I say, that we should pay both. We should be honest at all times, and toward all men. The principles which I advocate, are those of good faith and eternal justice, and it is no answer to tell me, that they are applicable to other cases beside those before us. I shrink not from following out these principles. I would extend them to all cases to which they can be legitimately applied. But then, it is objected, that those other creditors cannot now make out their claim, and we cannot extend them relief. And, if we cannot do all that we ought, shall we therefore do nothing ? If some of those whom we have wronged, have been placed by time and death beyond the reach of reparation, shall we therefore spurn from us those long-suffering creditors who are now suing for justice at our hand ? This may be policy ; it may be expediency ; it is not right.

The gentleman from North Carolina, (Mr. Alston,) is alarmed at the expense, and warns us to count the cost of the measure proposed. Are we, then, to pay our debts only when it can be done at a cheap rate ? Are we to preserve the national honor and the national faith, to exercise justice and gratitude only when they will cost nothing ? Sir, the able exposition of the state of our finances, made by the Committee of Ways and Means at the present session, shows that the Treasury can meet the drafts now proposed upon it, without interfering with any objects of national importance. But, were it otherwise, in order to discharge these most sacred obligations, I would retrench and economize. I would do what an honest man should to pay his private debts ; “rise up early, and sit up late, and eat the bread of carefulness.” I would yield to no allurements, but pare down our expenditures to the point of absolute necessity. I would bar all Oregon establishments, stop short on our roads, canals, and railways, and even pause in our system of fortifications for national defence ; for the

confidence and affection of the people, founded upon our justice, is a safer bulwark than would be a wall of brass encircling our whole dominions.

It is said by the gentleman from North Carolina, that the States individually have done much. Have they discharged our obligations? If we have cast our benefactors upon their charity, and they have relieved a part of their sufferings, does it absolve us from our duty? Is it not rather a stinging reproach, which should stimulate us to make instant reparation for our past omissions?

There is no danger from the precedent to be established; for precedents can apply only to cases that are similar. And can claims like these ever again arise? Can time go back? Can this nation revert to a state of colonial vassalage? Can we return to the wants and the weakness of infancy, and, writhing under oppression, be driven to the desperate struggle for existence? Can the scenes of the revolution be acted over again, and your soldiers, unclad, unfed, and amid indescribable horrors, again bear you on their swords, through darkness and blood, to independence; and then be sent away unrewarded, to pine in neglect and misery for nearly half a century? Can these things ever be again? And suppose that, in the course of human events, our country should be so reduced, that we should have nothing to pledge but our honor, and should be engaged in conflict with a gigantic power, in which life and liberty should be at stake, should we then regret a precedent like this, inspiring confidence in our faith, and giving vigor to our soldiers to redeem us from impending destruction?

We have heard much about pensions, and have been told by the gentleman from North Carolina, (Mr. Alston,) that the pension law of 1818 was so ruinous, that we were compelled to repeal it in two years. And the gentleman from Virginia, (Mr. McCoy,) told us, on a former occasion, that our pension system was more extensive than that of any other country; that the present laws went too far in favor of the soldiers of the revolution, and he would repeal them. This word, *pension*, is held up to us as a name of terror. There has been an odium attached to it, which has been, in some degree, extended to the persons who are pensioners, and thus, I apprehend, a shade of prejudice has been cast over the soldiers themselves. I am never disposed to



dispute about words, but they ought not to be so used as to misrepresent things. This term, pension, as we all know, is borrowed from England, where it is justly hateful ; for, to use the words of her great moralist, the giant of her literature, it is there “generally understood to mean the pay given to a State hireling, for treason to his country.” Is a term of infamy like this to be transported hither, and applied to the scanty and hard-earned rewards bestowed on the most self-devoted of patriots ? Those who would alarm us with the idea, that we are following the example of Great Britain, should remember that pensions there are gratuities, often drawn from the poor and humble, and generally bestowed on the powerful, to swell their luxury, and bribe their support to the ruling powers. But what we call pensions here, are bestowed upon the poor, and decrepid, and miserable, to give them merely the necessaries of life. Why have we thus applied the word pension ? Is it not because we were unwilling to give to our acts their true name, the tardy and stinted payment of a just debt, but chose, rather, out of vanity, or, as a flattering unction, to call them gratuities, that we might appear to be generous, when we were hardly just ? I care not for names, but I would not have gentlemen who have christened their own offspring in their own way, now quarrel with, and discard it, for the name it bears.

It has been said by the gentleman from Virginia, (Mr. McCoy,) and the gentleman from Tennessee, (Mr. Mitchell,) that we have already made provision for the poor and the necessitous, and that we ought to go no further. Sir, the soldiers of the revolution have a claim of right upon us, and I would do equal and ample justice to all, and not mete it out with a stinted and partial hand. I would not make the payment of our debts to depend upon the poverty of our creditors. No, sir, I would not say to the heroes who fought our battles, and, in the dark hour of our adversity, wrought out our political salvation, and to whom we delivered only tattered rags, and called them, in mockery, payment for their services ; men, whose disinterested achievements are not transcended in all the annals of chivalry, and who, for us, confronted horrors not surpassed in all the histories of all the martyrs—to these men of honor most cherished, and sentiments most exalted ; our fathers, the authors of our being, I would not now say, Come before us in the garb of mendicants—bow your proud

spirits in the dust—tear open the wounds of the heart, which you have concealed from every eye, and expose your nakedness to a cold, unfeeling world, and put all upon record, as a perpetual memorial of your country's ingratitude, and then, we will bestow a pittance in charity! You talk of erecting statues, and marble memorials of the Father of his country. It is well. But, could his spirit now be heard within these walls, would it not tell you, that to answer his fervent prayers, and verify his confident predictions of your gratitude to his companions in arms, would be a sweeter incense, a more grateful homage to his memory, than the most splendid mausoleum? You gave hundreds of thousands of dollars to Lafayette. It was well; and the whole country resounded, amen. But is not the citizen soldier, who fought by his side, who devoted every thing to your service, and has been deprived of his promised reward, equally entitled, I will not say to your liberality, but to your justice?

Sir, the present provisions for the soldiers of the revolution, is not sufficient. Even the act of 1818 was less comprehensive than it ought to have been. It should have embraced all, without any discrimination, except of services. But that act, partly by subsequent laws, and partly by illiberal rules of construction, has been narrowed far within its original scope. I am constrained to say, that, in the practical execution of these laws, the whole beneficent spirit of our institutions seems to have been reversed. Instead of presuming every man to be upright and true, until the contrary appears, every applicant seems to be presupposed to be false and perjured. Instead of bestowing these hard-earned rewards with alacrity, they have been either refused, or yielded with reluctance; and to send away the war-worn veteran, bowed down with the infirmities of age, empty from your door, seems to have been deemed an act of merit. So rigid has been the construction and application of the existing law, that cases most strictly within its provisions, of meritorious service and hopeless poverty, have been excluded from its benefits. Yet gentlemen tell us, that this law, so administered, is too liberal; that it goes too far, and they would repeal it. They would take back even the little which they have given! And is this possible? Look abroad upon this wide extended land, upon its wealth, its happiness, its hopes, and then turn to the aged soldier who gave you all, and see him descend in neglect and poverty to the tomb!



The time is short. A few years, and these remnants of a former age will no longer be seen. Then we shall indulge unavailing regrets for our present apathy ; for, how can the ingenuous mind look upon the grave of an injured benefactor ? How poignant the reflection, that the time for reparation and atonement has gone forever ! In what bitterness of soul shall we look back upon the infatuation which shall have cast aside an opportunity which never can return, to give peace to our conscience ! We shall then endeavor to stifle our convictions, by empty honors to their bones. We shall raise high the monument, and trumpet loud their deeds, but it will be all in vain. It cannot warm the hearts which shall have sunk cold and comfortless to the earth. This is no illusion. How often do we see, in our public gazettes, a pompous display of honors to the memory of some veteran patriot, who was suffered to linger out his latter days in unregarded penury !

“How proud we can press to the funeral array  
Of him whom we shunned in his sickness and sorrow !  
And bailiffs may seize his last blanket to-day,  
Whose pall shall be borne up by heroes to-morrow !”

We are profuse in our expressions of gratitude to the soldiers of the revolution. We can speak long and loud in their praise, but, when asked to bestow something substantial upon them, we hesitate and palter. To them we owe everything, even the soil which we tread, and the air of freedom which we breathe. Let us not turn them houseless from habitations which they have erected, and refuse them even a pittance from the exuberant fruits of their own labors.

REVOLUTIONARY OFFICERS AND  
THEIR HEIRS.



## REVOLUTIONARY OFFICERS AND THEIR HEIRS.

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IN 1827, a Bill was before the House of Representatives, for the Relief of the Surviving Officers of the Revolution. The opposition was vehement, and it was extremely doubtful whether the measure could be carried in any form. To insure its defeat, its enemies attempted to overload it, and to this end moved an Amendment embracing the heirs of deceased officers. It was known that the House would not pass any Bill so extensive; hence the opponents of all relief, earnestly insisted upon the equal right of the heirs, and that they should be included in the Bill. The friends of the measure were compelled to oppose this amendment, and, upon that question, Mr. Sprague made the following remarks. Some of the members of the House were not prepared to hear a discussion of first principles, and the original right to property, or to distinguish between the legal right of heirs under a system of positive legislation, and the original right of the first producer founded on natural equity as well as common consent. Mr. Sprague, too, was a new member, and probably the youngest man in the House. When he sat down, he was followed by a gentleman of much distinction, who, although in favor of the Bill, declared that he felt himself bound to admit that the argument which they had just heard, and all arguments to show that the claim of the heirs was not, in all respects, equal to that of the officer himself, were unsatisfactory. This admission, from such a source, seemed to be almost conclusive, at least in the minds of opponents, and yet the argument will be found, upon the closest scrutiny, to be sound and unanswerable.



## REVOLUTIONARY OFFICERS AND THEIR HEIRS.

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HOUSE OF REPRESENTATIVES, JANUARY 13th, 1827.

THE House having under consideration the Bill for the Relief of the Surviving Officers of the Revolutionary Army, and the question being on the Amendment moved yesterday by Mr. Wickliffe, which went to include the heirs and representatives of deceased officers, Mr. Sprague said:—

That he had been compelled to attend to his duties upon a Committee, during the greater part of the time that this subject had been under discussion. He could not, therefore, enter into the debate upon the general subject of the merits and claims of the soldiers of the revolution. Nor was it necessary that he should; for, if the records of our history, and the facts which had been elicited by the labors of the several Committees, to which the subject had been, session after session, referred, and the invincible arguments which had been urged by the advocates of the bill, and especially by the gentleman from Massachusetts, (Mr. Webster,) yesterday, had not made an impression on the House, it would be presumption, indeed, in him to attempt it. He had risen to make a few brief remarks upon the amendment now before the House, but was constrained first to advert to a closing observation of the gentleman from Kentucky, who had just resumed his seat. It appears that that gentleman has discovered, that the disbursements, under this bill, are to be made in the Eastern States; and he has taken the trouble to examine the



names on the list of yeas and nays of yesterday, for the purpose of counting them off by territorial lines. The inference which must have followed his statement, if he had not been courteous enough to disavow such intention, must have been, that he designed to impute interested motives to the States which he had designated. But did it escape the gentleman's discernment, that his territorial line had two sides to it, and that, when he counted off the States in the east, which had voted in the negative on the question of recommitment, he had thereby shown us, that those in the west voted in the affirmative, and had opened the way for an inference, that the latter had thus voted to destroy the bill, because the disbursements were not to be made among themselves? Mr. Sprague said he disclaimed, as cheerfully and sincerely as did the gentleman from Kentucky, any intention to impute interested motives. Indeed, it had never occurred to him, to inquire whether the votes for and against the bill, had come from the one section of the country or the other. But, if it were true, as the gentleman had informed the House, that the officers and soldiers of the revolution are citizens of the east; and if it be also true, that the gentlemen from the west are opposed to granting any relief, it may afford a new illustration of the truth, which has often been exemplified, that men bear with great composure and equanimity the misfortunes of *others*; and that we can more easily close our hearts and our hands to the injuries and distresses which are distant and remote, than to those immediately around and amongst us. He had not supposed that this was a local or sectional question, but had considered it truly national—affecting the national honor and the national faith. The claim of the soldiers of the revolution is an equal appeal to *all*, as citizens of that common country which they have redeemed, and as equal participators in the blessed and abundant fruits of their labors.

The motion now before the House, is to embrace the *heirs* of deceased officers. He was as deeply impressed with our obligations to those heirs, as the gentleman from Kentucky could be; and he trusted, that few were more desirous than himself, of discharging their claims. But he apprehended that it was impossible to do so, and reward the survivors also. All those who had supported the amendment, were, he believed, utterly opposed to making any provision for those who fought the battles of the revolution; and it must be seen that the adoption of the amend-

ment would probably be fatal to the bill. We cannot do ample and complete justice to all, but we can, and we ought, to dispense it in some measure to those who are the most meritorious, and to whom we are under the highest and strongest obligations. The line of distinction between the successive classes of merit, is indeed narrow, but we must draw it somewhere, and that, too, short of our wishes. As we cannot meet the claims of the survivors and the heirs of the deceased also, we must make our election between them. Which shall we prefer? It had been strenuously and most confidently insisted, by the mover of the amendment, and by the gentlemen from Indiana and Kentucky, that no difference whatever can possibly be shewn between our obligations to those two descriptions of persons; and, if the argument be sound, we may as well provide for the heirs of the deceased, to the exclusion of the survivors, as to relieve the latter and omit the former.

He thought that he could perceive some difference in those obligations; he did not undertake to say how great it was, nor did he know that he should be able to make it visible to others. He admitted that, when property had descended and vested in the heir, his legal right was as perfect as was that of the ancestor when alive. But that is not the case before us. This is not property—it has never vested in any heir. Whatever may be the claims of the soldiers, there are no laws to enforce them; and the application is made to us to create a law to give them legal form and substance, and converting them into property. The right of the soldier is a moral right, and our obligations to him rest on original principles of justice. The proposition embraces equally all heirs, whether lineal or collateral, immediate or remote. Some deceased officer may have left no other relative than a twentieth cousin, of whom he never heard, and with whom we never had any connexion whatever, and it is insisted that we are under as high moral obligations, upon primary principles of justice, to bestow rewards on him as upon the officer himself, to whom we made our promises, and who hazarded his life and poured out his blood in our defence.

Upon first principles, the highest right to property arises from personal labor. He who has obtained the fruits of the earth by the sweat of his own brow, has a better right to enjoy them than any one has to become his successor to them after his death. The laws of the civilized world acknowledge this

preëminence of right in the ancestor. Upon this principle alone, rest all their provisions for testamentary dispositions of property, by which the ancestor may divert it from his heirs at pleasure. The very laws of descent evidence this distinction, for, being to a certain extent arbitrary, they vary in different countries, and even in different parts of the same country. On one side of a stream, perhaps, property shall pass to a single descendant only, and, on the other, be equally distributed among all of equal degree; or, the individual who is to inherit, is ascertained by different modes of calculating the degrees of relationship, producing various results. But, although there exists this diversity, as to the persons who shall inherit, there is none as to the preëminent right of possession and enjoyment in the original acquirer. The laws of descent may be, in some respects, changed, according to the policy or circumstances of the country; but it would everywhere shock the moral sense of the community, to prevent a man's enjoying what he had himself obtained by his own personal sufferings.

Let the gentleman from Kentucky, as an illustration, take the case of a man who has, alone, penetrated the wilderness, and felled the forest, and erected the habitation of man, where, before, were only the dens of wild beasts. Will he say that a law which shall prevent such a one from reaping the fields which he had subdued and sown, and from being sheltered by the house which he had built with his own hands, and leave him in age, to beggary and want, is no greater outrage upon justice and moral right, than a law which shall merely divert the course of descent or prevent his acquisitions from falling on a distant relative?

As the gentlemen who have advocated the amendment, have so strongly insisted that there cannot be even a shade of difference between our obligations to reward the surviving officers, and the heirs of those who are now dead, he was desirous of fortifying his position by examples of laws founded on such distinction. With this view he would remark, that the right in question is in the nature of what the lawyers call a chose in action; a claim which may be pursued, consummated and converted into visible property by some legal act. But the time was, when the maxim prevailed "*actio personalis moritur cum persona.*" And at this moment, in many of the States, there are classes of personal actions which a man might pursue to judgment, in his lifetime, but which die when he dies, and never vest in his heir or representatives; and

this especially applies to those founded on personal suffering, whether mental or physical.

If there really be no shade of difference, how does it happen that a distinction has always been made by the reports of our committees, from the year 1810, to the present time? How does it happen, too, that those interested have themselves always made and acted upon such a distinction? For, although the survivors have made frequent and reiterated applications to Congress, the heirs of the deceased have never yet even presented themselves as claimants. This alone was sufficient to justify him in the views which he had taken.

What he had attempted to shew was, that our duty to the heirs, was not identical with our obligations to the survivors; and that, if we must elect between them, the latter are to be preferred to the former. He was as desirous of extending relief to other persons not embraced in the bill, as the advocates of the amendment could be. But he was constrained to take it as it was, because he was admonished, by past experience, of the danger of attempting to extend it. The bill was, at the last session, literally broken down by the accumulated amendments which were pressed upon it. There is a gradation of claim from those who fought during the whole war, down to those who shouldered a musket for a single day only. As we cannot comprehend all, we must prefer the higher grades of merit. These, as they succeed each other, were in some degree blended. A particular case might perhaps be found where a man, who served but six months, fought more and severer battles than another who served three years; but, as a class of persons, those who were in the army the longest term of time, were the most deserving. We cannot legislate for each individual case, but must prescribe general rules.

The gentleman from Indiana had advocated the doctrine, that, if we cannot do every thing, we should do nothing. If we cannot remove every evil that exists, we should not attempt a remedy for any.

(Mr. Test explained.)

Mr. Sprague proceeded. He had understood the gentleman to say, that, if he could not do complete justice to all, he would do nothing. Such was not his own view of duty. He would redress wrongs, and dispense right to the utmost of his ability; and whatever of injustice might remain, should, on his part, not be voluntary, but inevitable.





MASSACHUSETTS CLAIM.





## MASSACHUSETTS CLAIM.

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DURING the war of 1812, between the United States and Great Britain, the State of Massachusetts expended large sums of money for necessary self-defence. After the close of the war, she made a claim on the General Government for reimbursement of these expenses. The claim was resisted, principally on political grounds. The subject, having been referred by the President to Congress, came up for discussion, in the House of Representatives, at the first session, after Mr. Sprague became a member. On that occasion, he delivered the following speech.



## MASSACHUSETTS CLAIM.

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HOUSE OF REPRESENTATIVES, APRIL 7th, 1826.

THE Bill "allowing Compensation to the State of Massachusetts for Militia Services, performed during the last War," being under consideration, in Committee of the Whole, Mr. Buchanan in the chair, Mr. Sprague addressed the Committee as follows :

MR. CHAIRMAN : I am in favor of the bill ; and I am induced to offer my reasons for being so ; because I cannot entirely coincide in opinion with either of the gentlemen from Massachusetts, (Mr. Davis and Mr. Dwight,) who have addressed you ; and because the gentleman from Tennessee (Mr. Houston) has been pleased to say that no one who was in the minority of Massachusetts during the late war can support the bill, or receive money under it without a violation of consistency—without, indeed, an abandonment of principle. Sir, the State which I have the honor in part to represent, and all her representatives upon this floor, were in that minority. She will receive a portion of the money provided for by the bill, and I am unwilling, by silence, to admit that imputations can rest upon that character for political consistency, which we have so hardly earned, and so long maintained.

It is first asked, why should the claim of Massachusetts be allowed ? I answer, because it is just in itself, and because similar claims have been allowed to other States.

It is just in itself. The several States have conceded to the General Government the power of peace and war, and the revenues by which war is to be prosecuted and aggression repelled ;

and it is the duty of the General Government to protect each State against invasion. This duty is not left to inference, but is imposed, in express terms, in the fourth section of the fourth article of the constitution. This high obligation, thus assumed by the fundamental law, is brought into most vigorous exercise when the United States declare war ; for then an enemy is created without the consent of the State ; the time and circumstances of the declaration are selected by the General Government ; and, most assuredly, it ought to defend the citizens from the attacks which it has thus deliberately challenged. If it do not, but leaves a State to exhaust its own resources in repelling the enemy, the United States are bound to repay the sums which shall have been thus expended.

This proposition is so clear that it hardly admits of argument or illustration. It rests upon those eternal principles of justice and good faith by which every judicial tribunal proceeds in enforcing engagements between man and man,—principles, which are fundamental in the jurisprudence of every enlightened country ; which the United States have recognized and enforced ; and in obedience to which Congress have acted in granting claims ever since the organization of the Government.

This very subject of militia services has presented itself, and the United States have paid large sums to several States, for expenses incurred in defending themselves, during the late war, without any previous request or assent on the part of the General Government. Such were the claims of Maryland and New York. This principle has not only been acted upon in particular cases, but established as a general rule. In a letter from Mr. Calhoun, Secretary of War, to the Third Auditor, written on the fourteenth of February, 1818, in reference to the claims of the State of Maryland, he says : “ You will admit all the expenditures by the State that are of the usual character in such cases, and properly vouched, where the militia have been called out on actual or well-founded fear of invasion.” And, in a letter of thirtieth of March, 1818, the same officer, in reference to the claims of New York, says : “ In the settlement of similar accounts, it has been established by this Department as a principle, that the United States are liable for all the disbursements made by the State on account of militia called out by authority of the United States ; provided such disbursements were for the usual military supplies, and such as are

authorized by law for the militia. The same principle applies where the militia have been called out by State authority, and afterwards recognized by the President, or where they have been called out on a sudden invasion, or well-founded fear of invasion."

The bill before us is founded upon these principles and these precedents. It proposes to pay to Massachusetts the sum which she necessarily expended in protecting herself from invasion, during a war declared by the United States. It is to extend to her the same measure of justice which has been meted out to the other members of the Confederacy, and which has been withheld from her, and her only. Such being the character of the bill, I cannot doubt that every gentleman who hears me would wish to give it his support, and repay to Massachusetts the sums which she has paid in discharging the obligations of the General Government, unless there be some insuperable objection, involving a violation of principle.

What, then, are the objections which have been urged against it? The speech of the gentleman from Tennessee (Mr. Houston) rests wholly upon certain doctrines and conduct of Massachusetts during the war. His objection, reduced to distinct form, is, that you cannot pass this bill without giving your sanction to those doctrines and that conduct. This, indeed, comprises all that has been urged, here or elsewhere, which is entitled to be considered as an objection. Those doctrines were: First, that to the State Executive belongs the right to judge of the existence of the exigencies upon which the militia are to be called forth into the service of the United States; and, secondly, that, when called forth, the militia cannot be lawfully commanded by any officer of the United States, except by the President in person. These doctrines were unquestionably erroneous. I thought so then—I think so still—I have never had a doubt of it. I have resisted them from the first moment of their promulgation; and far be it from me now to say or do, or assent to any thing which would establish them as true. The claim of Massachusetts is not, for a moment, to be put in competition with a sound construction of the Constitution; it is but as the dust in the balance, in the comparison.

By passing the bill, you undoubtedly approve of the militia services for which it makes payment. But you do not thereby sanction the opinions and conduct which have been adverted to



unless they were so connected with the services that you cannot countenance the one without approving the other. Were they so connected? At first view, it seems difficult to perceive how services, actually performed, should be considered as growing out of a refusal to render service. But, without relying upon this, I ask your attention to the transactions of the period when these expenses were incurred. Let us see what was done, and not merely what was said.

The act of tenth of April, 1812, authorized a detachment from the militia of one hundred thousand men, of which each State was to furnish its quota; and the President was authorized to call them into actual service, in all the exigencies provided for by the Constitution. In the same month of April, 1812, the Secretary of War requested the Governors of the several States to hold their respective quotas of said detachment in readiness; and, on the twenty-second of June following, four days after the declaration of war, General Dearborn requested the Governor of Massachusetts to call into actual service forty-one companies as a part of the Massachusetts quota of said detachment, under the act of April, 1812. This requisition was sanctioned by the President, and enforced by a letter from the Secretary of War to the Governor of Massachusetts, written on the twenty-first of July, 1812. The Executive of Massachusetts then consulted the Judges of the Supreme Court of that State, and thereupon advanced those erroneous doctrines respecting the constitutional power over the militia, which have been so much and so justly censured; and Governor Strong then refused to comply with the requisition which had been made. What was the extent of that refusal? The most obvious answer is, that it was coextensive with the request, which was confined, in express terms, to a part of the detachment authorized by the law of 1812, and for six months only. But gentlemen may, perhaps, contend that, a part having been called for and withheld, the refusal, if unretracted, is to be considered as operating so long as the detachment and the law of 1812 existed. This is its utmost latitude. It surely could have no effect when the subject matter, upon which it was to act, was gone. When the law ceases to exist, disobedience of it is necessarily at an end.

Now, sir, the law of 1812 expired, by its own limitation, on the tenth of April, 1814, and all the expenses for which remuneration is asked, excepting a small fraction, a hundredth part, per-



haps accrued after that period. If, then, the requisition, made under the act of 1812, had been fully complied with—nay, sir, if the whole detachment, created by that law, had been in actual service during the whole term of its existence—it would not have precluded the necessity of the services rendered in the summer and autumn of 1814, when the enemy was waging war with his utmost vigor upon our sea-coast. The provision for defence, by the law of 1812, was contemplated to extend only to April, 1814, when the law and detachment expired together. So far, then, there was no connection whatever between those erroneous opinions, or refusal, and the militia services subsequently performed.

In April, 1814, commenced a new era. The only act of Congress, bearing upon this subject, then remaining in force, was the law of 28th February, 1795. By the first section of that act, it is provided, that, in case of invasion, or imminent danger of invasion, “it shall be lawful for the President of the United States to call forth such number of the militia of the State or States, most convenient to the place of danger, or scene of action, as he may judge necessary to repel such invasion, and to issue his orders for that purpose to such officer or officers of the militia as he shall think proper.” I cannot agree in the opinion, respecting this law, which has just been expressed by the gentleman from Massachusetts, (Mr. Dwight,) but will endeavor to present my own views of it.

It is to be remembered that, by the Constitution, the President has no power to call forth the militia, in any event whatever. He is to be the Commander-in-Chief of the militia when in actual service. But to Congress, and Congress alone, belongs the power to provide for calling them forth. The law, then, might as well have vested his authority in any other tribunal, or individual, as in the President. Suppose that it had declared that the Supreme Court of the United States should *judge* of the existence and extent of the constitutional exigencies, upon which the militia are to be required, and, upon such judgment, should issue their mandate to a militia officer; would it be contended that that Court could have constituted an inferior tribunal to form that judgment in their stead, and to issue that mandate? Under this law, the President was only an agent, with defined and delegated powers. And if the principle, that delegated power cannot be again delegated, is ever to be applied, it must be to a case like

this ; where it was to be exerted upon future contingencies, and a judgment to be formed by the agent upon knowledge to be acquired. It involved the exercise of a most important and delicate discretion. It was strictly fiduciary. The President then, could not impart this power to others. He could not parcel out the exercise of his discretion, and the forming of his judgment, among a number of inferior officers, and authorize each to judge, and to call forth the militia at pleasure. If he could, then the persons so authorized might delegate this power to their inferiors, and these again to others, and so on, without limitation, until the whole militia of the United States might be at the command of the meanest subaltern in the army.

Will it be said that I am encroaching upon the powers of the General Government over the militia? I am not. I hold that the power of Congress to provide for calling forth the militia, is a complete power ; they may exercise it at pleasure. But no officer can call for the militia in any other manner than that which has been provided by law ; and, if he attempt to do so, he encroaches upon the powers of Congress, and his call is utterly nugatory. Will it be said that General Dearborn was only the medium, a mere conduit, through which the President acted, and that the requisition was the order of the President, issued upon his own judgment, and not dependent upon any discretion in General Dearborn? Sir, all the documents before us, and the whole history of the proceedings of the United States' officers, in Massachusetts, show that it was otherwise. The nature of the authority intended to be conferred upon that officer, is clearly shown by the letter from the Secretary of War to the Governor of Massachusetts, dated twelfth of June, 1812. It is in these words :

“SIR: I am directed by the President to request your Excellency to order into the service of the United States, *on the requisition of Major-General Dearborn, such part of the quota of the militia of Massachusetts, detached conformably to the act of 10th April, 1812, as he may deem necessary for the defence of the sea-coast.*”

This is no present order for the militia, but wholly prospective, and makes the calling for them to depend entirely upon the discretion of the officer, and not upon the judgment of the President. It was written before the war existed, while we were at

peace with all the world. It does not, indeed, directly appear, that the President attempted to confer authority on General Dearborn, under the law of 1795 ; although, perhaps, it may be gathered from the tenor of the documents, that it was contemplated that he should exercise the same general discretionary power under this law, as under that of 1812. But as such a power could not be delegated, General Dearborn could possess no authority to call forth the militia.

Another difficulty has presented itself. The gentleman from Tennessee has told us that no officer of the militia is to be commanded by an inferior officer of the army of the United States. So says Mr. Monroe, in his letter to a committee of the Senate ; so say the rules and articles of war, and every other authority upon the subject. I should like, then, to be informed how the Commander-in-Chief of the militia of a State is bound to obey the *orders* or *commands* of a Major-General of the army of the United States, issued at the will and pleasure of such officer ? I put it to the gentleman to answer me. Will he say that such Commander-in-Chief, with seventy thousand bayonets at his command, and thirteen Major-Generals under him, is not superior in grade to a General in the army ? No one will pretend it. Will he say that the requisition upon the Governor was not to be an order to him as a militia officer ? Then it was a mere nullity. The only mode provided by Congress, was by *an order to an officer of the militia*. And a request for troops, so far as it relates to its legal efficacy, might as well be addressed to the priest of a parish, or a proctor in a college, as to the Governor of a State, if it be not an order to him as a militia officer.

Sir, the President never issued his order for the militia of Massachusetts, under the act of 1795 ; and no constitutional provision was made for her defence by the General Government, after April, 1814. She was compelled to defend herself. After the peace in Europe, the enemy was enabled to bring an immense force upon her extended coast, and she was left to exhaust her own resources, in repelling the enemy, and protecting the territory of the United States from invasion. These expenditures are wholly disconnected from all censurable acts and erroneous opinions, and we are solemnly bound to make remuneration for them, as we have done for all similar services in other States.

The gentleman from Tennessee has spoken at large of the

conduct of Massachusetts during the war, but, after all his laborious researches, he has found but one instance in which, even by his own construction, there was any want of promptitude in repelling the enemy; and that was the case of the little town of Brewster. He spoke, somewhat sneeringly, of the contribution levied upon that place; and told us, rather significantly, that, if he had been there, he would have met the enemy at the point of the bayonet. Yes, sir, if he had lived in a little village of thirty or forty houses, upon a sandy cape, where three British seventy-fours could, within point-blank shot, have poured in their whole batteries, and demolished it at once, he would have stood upon the naked beach, and met those seventy-fours, at the point of the bayonet! It would have been a most gallant action! The gentleman spoke of that which he did not understand. Had he known the hardy Cape Codmen as well as I do, he would have known, that there is not upon this earth, a set of men that meet an enemy more fearlessly than they do. Such were the men who achieved your victories upon the Lakes, and upon the Ocean, and suffered in the prisons of Dartmoor; and I envy not the man who can speak of their misfortunes with a sneer.

I am not an apologist for the conduct of Massachusetts during the war. There was much of it which I never did, and never can, approve. But I would not be indiscriminate in our censure.

The gentleman has asserted, that Massachusetts invariably thwarted the General Government, and threw every possible obstacle in its way, and that the United States derived no aid whatever from Massachusetts! No aid from Massachusetts? Who swept the commerce of the enemy, and paid the customs into your Treasury? Who composed your army on the Niagara frontier? Who manned your ships? Sir, you spread not a sail, you fired not a gun upon the Lakes or the Ocean, without the aid of the sons of Massachusetts; and scarcely a battle was fought upon the waters, in which her blood did not mingle with the waves. I will say, what I believe, that there is no State in the Union whose citizens contributed more to the glory and success of our arms, during the late war, than did the sons of Massachusetts.

I would not be drawn aside from the subject of the militia, which is now more immediately before us, and of which, for the present, I am content to speak. I have before remarked, that General Dearborn had no power to make any authoritative requi-



sitions for the militia after the year 1812. But that brave and faithful officer was anxious that the territory and property within his district should be defended, and, for that purpose, he, at different times, requested that troops should be called forth; and, notwithstanding what has been said by the gentleman from Tennessee, every request made upon the Governor of Massachusetts by General Dearborn, or any other officer of the United States, for the purpose of defence, was substantially complied with after 1812. I do not mean that they were answered in form, and the troops always placed under the officers of the United States, but that the measures desired were actually adopted. There was concert and arrangement between the officers of the General and State Governments in their exertions to defend the soil.

As the gentleman has undertaken to deny this, and has asserted that Massachusetts threw every possible obstacle in the way of the General Government, and rendered no aid whatever, I hope I shall here be indulged in presenting a statement of facts, which appear in the documents.

The first requisition made by General Dearborn after 1812, was on the eighth of July, 1814, and was for eleven hundred men to be called into service, with suitable officers. On the twelfth of the same July, the Governor of Massachusetts ordered his Adjutant General to comply with that request, which was done, and the troops placed under the command of an officer of the United States.

The next request was on the twelfth of August of the same year, when he desired that small detachments should be turned out, as occasion should require, for the defence of the sea-coast. This measure was adopted.

On the fifth of September, 1814, General Dearborn requested about four thousand seven hundred men to be called out, and on the sixth of the same September, he suggested the propriety of having all the militia within twenty or thirty miles of the sea-coast on the alert, and ready to march at a moment's warning. On the same sixth of September, the Governor called into service more than four thousand seven hundred troops, and ordered the whole militia of the State to be in constant readiness for an instant march.

On the seventeenth of the same September, General Dearborn made a requisition for twelve hundred men, which was complied

with, and the troops placed under his command, in the forts of the United States.

On the twentieth of September, 1814, pursuant to previous arrangement, eleven hundred men were ordered by the Executive of Massachusetts to be placed under the command of an officer of the United States, but difficulties arising from the militia, and not from the Government, prevented this arrangement being carried into effect.

On the twenty-second of the same September, three hundred men were placed under the command of Colonel Walbach, of the United States' Army, for the defence of Portsmouth, in New Hampshire.

As early as August, 1812, at the request of General Dearborn, three companies were placed under the command of General Boyd, a United States' officer at Eastport.

In the spring and summer of 1814, Commodore Bainbridge, then commander of the United States' navy-yard, at Charlestown, made several requests for preparations and aid from the militia, for the defence of the frigate Constitution and the navy-yard, and for the erection of forts, all of which were with such alacrity complied with, as to cause expressions of gratification, not only from the Commodore, but from the Secretary of the Navy himself.

On the first of July, 1814, the Governor of Massachusetts gave orders to Major-General King, that, whenever application should be made by an authorized officer of the United States, commanding any of the forts of the United States, for aid to defend them against the approach of an enemy, he should comply with the request, and furnish the number of men desired.

Is this "invariably thwarting the General Government?" Is this "rendering them *no aid whatever*?" Surely, the gentleman from Tennessee must have been very unfortunate in his researches, and the authorities upon which he relied.

The same gentleman told us, and he repeated the assertion, that no more than three companies of militia were ever placed by Massachusetts under officers of the United States; and that the doctrine that the militia could not be lawfully commanded by such officers, was adhered to throughout the whole war. The correctness of this assertion may be judged of by the facts which I have already stated: The eleven hundred men placed under



a United States' officer, on the twelfth of July, 1814; the twelve hundred men put under Major-General Dearborn, pursuant to his request of seventeenth September; the three hundred men placed under Colonel Walbach; besides the three companies placed under General Boyd, in 1812. Sir, that doctrine, respecting the command of the militia, was actually relinquished and abandoned, both by word and deed, by the very Governor who advanced it; and that, too, during the war, before and at the time the militia were in service. The position taken was, that the militia cannot be *lawfully* commanded by an officer of the United States. In every instance in which the Governor placed troops under the command of an officer of the United States, he abandoned that position: for he thereby declared such command to be *lawful*, otherwise he must confess himself to be guilty of subjecting his own soldiers to an illegal and usurped command. He abandoned this doctrine, too, when, on the twentieth of September, orders were issued for eleven hundred men to be placed under an officer of the army, pursuant to previous arrangement. In a letter written by Governor Strong to his Adjutant General, on the twelfth of June, 1814, he says, he sees no difficulty in placing militia under the command of General Cushing, of the United States' army. More conclusive still, is the letter written to Major-General King, on the first of July, 1814, which not only admits that the militia may be lawfully commanded by United States' officers, but expressly concedes that such officers are to have precedence, and the command of militia officers of equal grade. This was unequivocally yielding all that the General Government ever claimed on this point, as appears by a letter from Mr. Monroe, as Secretary of War, to Governor Strong, written on the seventeenth of September, 1814, and a letter from the same officer to Mr. Giles, Chairman of a Committee of the Senate, bearing date the eleventh of February, 1815. These acts and these services, so far from being allied to those erroneous and dangerous opinions, are opposed to and inconsistent with them. Do they not merit our entire approbation? Is there any danger to be apprehended? Can any one here imagine that the notion respecting constitutional power, which was strangled almost in its birth, and has been buried for years, can be now dug up, and resuscitated, and acquire strength enough to break down the Constitution?

I have thus far confined myself to the transactions of the war, and the circumstances attendant upon the services for which compensation is claimed. Since that time, the Government of Massachusetts have unequivocally renounced those erroneous doctrines, which are now urged as so formidable an objection to this bill. Here I wish not to be misunderstood. I do not contend that this renunciation gives any new merits to the claim. It must make its way by its own original strength. But the disavowal removes an obstruction presented to the progress of the claim. It is objected, that you will jeopardize the sound construction of the Constitution. But those erroneous expositions having been expressly renounced by the State which advanced them, if you allow the claim after and upon such renunciation, you thereby sanction the disavowal, and repudiate those doctrines. The objection is thus effectually obviated.

But further. Are not the reports of your committees upon this subject, and the messages of the late President of the United States, upon record, where they will always show that this bill rests upon grounds that are in direct hostility to those erroneous doctrines; and is it possible that any man will hereafter believe or contend that the proceedings of this House give countenance to those constructions? Nay, sir, look at the bill itself: it carries a denial of them on its face. It provides that the militia shall be paid—not because the Governor of Massachusetts thought their services to be necessary, but to the extent that the Executive Department of the United States shall believe them to have been necessary; thus withholding from the State the right to judge of the exigency, and expressly retaining it in the United States.

It was said by Mr. Monroe, in a letter to Governor Strong, during the War, that, if the Governor had the right to determine under what circumstances the militia were to be called out, a State might burthen the United States with expense, at pleasure, without their consent. This bill says that the State could not, at pleasure, burden the United States with such expenses, and thus declares that the Governor had not the right to judge of the emergencies. The bill further provides, that where the militia were specifically withheld from the command of an officer of the United States, applying for the same, payment shall not be made; thus, in the most unequivocal terms, denying, and putting down the notion, that the militia are not to be commanded by United

States' officers. There is no possible distortion by which this construction can be rendered even doubtful.

The principles of this bill are most safe for the national Treasury ; for, however great may have been the expenditures of Massachusetts, no more can be paid to her than it must have cost the United States to have provided for her defence. On the other hand, if her measures were more economical than those of the United States, you derive the whole benefit of that economy ; and, in point of fact, if the forty-one companies, called for by General Dearborn, had been in service during the two years that the law of 1812 continued in force, it would have cost the United States hundreds of thousands of dollars, and probably more than the whole existing claim. The citizens of Massachusetts and Maine may have suffered by that refusal, their defence not being adequately provided for ; but it will be an immense benefit to the national Treasury, even when the whole demand of Massachusetts, with interest, shall be allowed.

I am constrained, sir, to acknowledge that I came to this inquiry with prepossessions against the claim ; but careful investigation has convinced me of its justice ; and I cannot doubt that every gentleman who will give to the subject a thorough examination will come to the same result. This conviction is strengthened by the fact, that every committee to whom it has been referred—and there have been not less than three—have reported in favor of the claim, and the late President of the United States, who, of all men in the National Government, had the best means of understanding it, and certainly had no reason to be unduly biased in its favor, acknowledged its justice, and, by repeated messages to Congress, strongly recommended its payment. I hope, then, that it will not be thought indecorous in me to request gentlemen to come to the consideration of this subject unbiased, and to discard whatever of prejudice the excitement of past times may have produced ; for prejudice silently and secretly winds its subtle and tenuous web around the mind, until the rays of truth are utterly excluded.

The gentleman from Tennessee has introduced many things wholly foreign from the subject before us. He has even conjured up the ghost of the Hartford Convention to frighten us on this occasion. Sir, it has no terrors for me. I feared it not when in full life and vigor. I resisted it then, and have never spoken of



it but as deserving decided condemnation. But what has the Hartford Convention, or our opinions of it, to do with this bill? The services for which it provides were performed in the summer and autumn of 1814, and that Convention had no existence until the winter following. The debt had accrued, the obligation upon the United States to pay it had attached, before that assemblage had being. How, then, are they connected? Is it to be presented as a release and discharge in full of preëxisting debts and obligations?

The gentleman dwelt also upon the resolution of the Senate of Massachusetts, relative to the victory of the *Hornet* over the *Peacock*. I need not declare that I never could have assented to that resolution. I might, with some pride, say that a venerated parent, as a member of that body, opposed it at the time, and, ten years afterwards, was the mover of the resolution which expunged it from the record. But, again, I say, what connection has that transaction with the business before us? Are we to arraign the Senate of Massachusetts for declining to pass a vote of thanks? Is a great, respectable State to be punished and degraded because one branch of its Legislature withheld a gratuitous compliment from one of your officers? But it is said that that Senate expressed, in strong terms, their disapprobation of the war, of which that gentleman and myself were ardent supporters. And had they not a right to express their opinions? Sir, public opinion is the vivifying principle which gives life and vigor to all your republican institutions; and it is the essential right of the people, individually and collectively, to express their views of public measures. We see it daily exemplified. In some States, hardly a jury can be empannelled which does not arraign some public act; and resolutions upon national subjects and national measures are passed by all descriptions of persons, and in all kinds of assemblies. And are we to deny this right to the Legislature of an independent State? We have been told, in a recent debate, that, if an enemy should again take this Capital, and should cut off the head of this Confederacy, he would immediately find twenty-four other heads arising from the body of this Hydra, in the form of State Legislatures; that the State Legislatures are to be the salvation of this country in time of war; and are they not to have the poor privilege of expressing their opinions of such war? As to the correctness of those opinions, the Senators of Massachusetts were

amenable to their own constituents, and to them only. And "who art thou that judgest another man's servant?—to his own master he standeth or falleth." To the People of Massachusetts were they responsible, and to the People of Massachusetts have they answered it.

The gentleman told us that he knew nothing of party during the war. I believe him, sir; and it explains the cause of some of the errors into which he has fallen. If he had known the true character of parties, he never could have taken the unqualified representation of heated partisans for exact and sober truth, upon which to rest an argument addressed to this House. I may say, with the gentleman from Massachusetts, (Mr. Everett,) that I have, in early life, seen something of parties. I have seen those whose native feelings of pure and ardent benevolence would have bound them together by the strongest ties of affection, who would have poured out their blood for each other, but, when the fiend of party had taken possession of their bosoms, meet only with the looks and feelings of demons! I have seen the flame of party which had been lighted up by the firebrands of the furies! Can we take a picture drawn by a political enthusiast, as a true delineation of the character and principles of all his adversaries? Who is there amongst us, that, stinging under real or supposed injuries, in the exasperation of party contentions, may not have depicted his opponents in darker colors than sober reflection could afterwards approve? I need not follow the gentleman through the mad projects of individual maniacs, advanced one day and withdrawn the next, like that of Mr. Low, to which he alluded. I will not follow through the hair-brained petitions and memorials of political fanatics. I will not dive into the mass of newspaper feculence of that day, to bring up here the bitter fruits of party virulence.

Sir, these things have no relation to the subject before us. And when the gentleman shall have inquired and deliberated, I will appeal to him,—is it generous, is it just, to travel away from the merits of the question, and arouse the embittered recollections of past contentions, which may produce a spurious influence against the bill?

The argument of the gentleman, stripped of all disguise, is this,—that we should reject this claim, not for its own character, but as a punishment upon Massachusetts for her demerits in other

respects; and the same has been urged elsewhere. Is such a principle to be tolerated? Is this House to erect itself into a tribunal to sit in judgment upon the several States? Are we to keep an account current with them, charging each with every error of opinion, and every deviation from our standard of rectitude, and balance the account by withholding justice? Was such a principle ever before advanced or thought of? Adopt it, and you reduce the States to less than mere local corporations! Adopt it, and you may then ring the knell of State rights. Let me bring it home to each one present. Let me say to the gentleman from Tennessee, to you, Mr. Chairman, or to the gentleman from Virginia, your State has held unpalatable opinions; your conduct has not always been squared by our rules of propriety; and for this you shall be punished; you shall be degraded; your just claims shall be rejected; and you shall be shut out from the common benefits of the Union! What would be the answer? Should I not be told that you would sound the tocsin until it should be heard from one end of the Union to the other? And I can tell you that the note of remonstrance will ring as loud and as long from the mountains and forests of Maine, as from the soil of any State—Middle, Southern, or Western.

All the errors of Massachusetts have been portrayed in sombre colors, while her merits have been passed by in silence. Even her early sufferings, without which, some of those who are now ready to reproach her, would never have breathed the air, or lisped the accents of freedom, seem to be almost forgotten. It is not for me to delineate her character; it belongs to other hands. But since all who were citizens of Massachusetts, during the late war, have been visited by indiscriminate denunciations, I trust I may be indulged in saying a few words for that part which now constitutes my own State.

Maine, sir, under all her sufferings, has been, at all times, the firm and undeviating supporter of the cause of our country. Although a great portion of her citizens were dependent upon commerce for their very subsistence, yet, during embargo, restrictions, and war, she beheld her commerce annihilated; her wharves and her shores desolate; her ships, her produce, and her storehouses rotting together; her merchants ruined; her mechanics and sailors reduced from competence to beggary; and misery and want spread through her land; and all without



faltering for a moment in her fearless and unwavering support of the National Government.

During the war—bordering for more than three hundred miles upon the territories of the enemy, and with nearly the same extent of maritime frontier, indented with innumerable bays and inlets, studded with towns and villages, with millions of shipping in her harbors, when the enemy, after the pacification in Europe, was enabled to bring his immense forces upon her shores, and was waging a barbarous warfare, ravaging and making incursions into her territory—when dismay went before him, and desolation followed in his train, she was compelled to meet and stay the enemy alone and unassisted. You sent not a soldier to her relief; nay, her own hardy sons, who had volunteered into your service, were not permitted to remain to defend their own homes and their families, but marched away to the frontiers of New York, to fight the battles of Chippewa and Niagara! Yes, sir, the battles of Chippewa and Niagara. Who composed the Ninth Regiment, which has just been mentioned by the gentleman from Massachusetts, (Mr. Dwight,) and which there fought successfully against twice their numbers of British veterans, whilst one half their own number had fallen on the field? That regiment was unequalled, except by the Twenty-first. Yes, the Twenty-first, in which fought those whom Ripley first led from the stubborn soil of Maine; which, when the fate of the battle of Niagara stood suspended, or rather, when it was almost decided against you, turned the tide of war, by a movement so desperate, that the commanding general had not even thought of proposing it to any. But Ripley knew his men, and, by his order, under the gallant Miller, they ascended an eminence commanded by all the enemy's artillery, and, in the full blaze of their cannon, continued to advance until they cut down the artillerists at their pieces, and drove the infantry from the position. The British commander, stung to madness by this unexpected defeat, brought, in three successive charges, fresh and redoubled forces to retake the ground. The conflict was man to man, and bayonet to bayonet; the combatants were commingled, the enemy was beaten. It was a contest which, for obstinate and desperate valor, was unequalled, upon land, during the whole war; and the Twenty-first Regiment stands unrivalled. And what return has Maine received? Neglect then, and contumely now. At the

close of the war, almost all the officers and soldiers from Maine and Massachusetts were coldly turned out of your service. Those who had been "first in the fight" found no room "at the feast." While clouds lowered around us, and the tempest raged, you called upon them to protect you from its fury; but, when peace had returned, and all was fair, and calm, and safe, their stern and warlike virtues could be dispensed with. Others found more favor in your eyes; perhaps of more supple form and gayer plumage. I could proceed further in this course of remark, but I am unwilling to do so. It is grating to my feelings to be compelled to speak of my own State; and I should not have done so, had not indiscriminate censure been poured forth upon a people whose fidelity and patriotism have been always conspicuous, in spite of privation and danger, and neglect, and injury. Maine has done her duty to the utmost; but she has not, like some others, trumpeted her merits. She seeks no rewards. She asks no favors. She demands only equal and impartial justice. And I am confident that justice will not be withheld. Its exercise is enjoined upon you by every consideration of moral right and political expediency. Whilst despots are laboring and combining to prop up their iron thrones, it is our high duty to strengthen and perpetuate our own institutions, as the best service we can render to ourselves and to mankind. To this end, we must, on all occasions, seek to cement our Union, to bind together all the parts in the bonds of mutual interest, mutual confidence, and mutual affection. One deliberate act of palpable injustice to a State, may chill the warm current of patriotism, and engender distrust and resentment. To adopt the principles which have been advanced in this debate,—to punish, stigmatize, and degrade a State, for errors of opinion, must be felt, not only as an injury, but as an insult. The wounded spirit will rankle from generation to generation. If you compel the fathers to "eat sour grapes," the "children's teeth will be set on edge." Reject, then, this novel, this alarming doctrine. Plant not a root of bitterness, which may spring up, and rise, and expand, until it covers and darkens all this fair land.

Let me not be misunderstood. In nothing that I have said, do I mean any thing like a threat. I despise gasconading everywhere, and especially on this floor. I know the strong attachment which Maine and Massachusetts cherish towards the

National Government, and that they will bear and forbear as long as endurance can be a virtue. I mean only to present the disastrous consequences which must flow from the dangerous principles which have been advanced, whenever they shall be adopted, and wherever practically applied.



PANAMA MISSION.





## PANAMA MISSION.

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HOUSE OF REPRESENTATIVES, 20th APRIL, 1826.

THE following resolution being under consideration, in Committee of the Whole, upon the state of the Union, viz :

*Resolved*, That, in the opinion of the House, it is expedient to appropriate the funds necessary to enable the President of the United States to send Ministers to the Congress of Panama :

Mr. McLane, of Delaware, moved an amendment, declaring the opinion of the House as to the authority to be given to those Ministers, and that it ought to be limited and restricted, as specified in the amendment.

Mr. Sprague spoke as follows :

The gentleman from Delaware, (Mr. McLane,) who had just taken his seat, had told us that he wishes these restrictions imposed upon our Ministers, because he would enter into no measures to oppose the European Powers ; that he would consult exclusively the interests of the United States. Sir, (said Mr. S.,) I fully assent to the general course of policy set forth in these amendments, that we should form no alliances and be involved in no entanglements. I agree that the interests of our own country are paramount to all other considerations, and that they should not be sacrificed by any sympathy for others. We should take care of ourselves, and it may require all our efforts to preserve our own institutions. But I am opposed to these amendments. The gentleman would restrict the Executive, in order to promote our own interests. How do we now know what the true interests

of this country may require to be done at this Congress of Panama? Is this House now in possession of all the information that may bear upon this subject? Do we know the present condition of all our diplomatic correspondence, and all that has been done by all the Powers in Europe, and all the Governments in South America? And if we know all that has been done or said, do we know every thing that will be done, or can occur, during the existence of that Congress, or even before we shall reassemble here next winter? And can we now certainly define, beforehand, what the true interests of this country may or may not require to be done at that Congress? May not the vital interests, may not the existence, of our own country, be jeopardized, by other movements of the crowned heads in Europe, beside the direct invasion of our soil? Sir, in the commencement of our Revolution, what caused Connecticut, and New Hampshire, and all the other colonies, to rise in arms when Massachusetts came in conflict with the mother country? They were not invaded. It was for their own self-preservation. It was because Great Britain had asserted the right to bind all the colonies, in all cases whatsoever, and had attempted to carry it into actual effect by force. And suppose it should be learned, during the approaching summer, that the Holy Alliance had decreed that they would put down all free Governments, in all cases whatsoever, and were about to carry it into effect by landing hundreds of thousands of bayonets upon the shores of Mexico—immediately upon our borders? Should we fold our arms, and look on with indifference, and wait only for the poor privilege of being the last victim? Can we now say, that there cannot be any possible combination of circumstances, which may render it proper to make a joint declaration, or concert other measures for the defence of the South American States, and ourselves from European aggression? If we cannot, why should we tie down the Executive so that he may not act, under all circumstances, as the good of this country may require? Why not leave to him the free exercise of his appropriate duties, as they are left by the Constitution, and to the discharge of which, this House is so ill adapted? Why take upon ourselves the guardianship of the Executive? Our Constitution presupposes that every department of the Government will discharge the trust reposed in it, with ability and correctness, and why should we undertake to say to the Executive, you shall not

act freely, because we presume, in anticipation, that you will not act correctly?

As to the right of this House to pass resolutions respecting merely the general course of our foreign policy, I shall say nothing. It is a very different thing from what is now attempted. To say merely, as a *general* rule, what our policy ought to be, as, that it should be pacific, neutral, still leaves to the Executive the full exercise of his discretion as to the circumstances and emergencies to which that policy does not apply, or under which it should be departed from; but to say what shall or shall not be done in a particular measure, is to deprive him of all discretion over the subject. In such case, no exceptions can be admitted, as there may be to a general rule. I know it has been strenuously contended, that the resolution now proposed, is a mere abstract declaration of opinion, and unconnected with the mission. The gentleman from Delaware, the mover of these amendments, protests against their being connected with the appropriation bill and the mission. This is an abstract opinion, unconnected with any particular measure! Sir, it is a proposition in terms of and concerning this particular mission. It declares that the appropriation for it is expedient, which is the same as saying that the appropriation bill ought to pass, subject to the proposed restrictions. The mission is the subject-matter of the resolution, and of all the amendments which have been offered. I have closely attended to the debate upon this subject, without any intention of taking part in it; and I believe that every gentleman who has advocated the proposed amendments, even those who have most strongly protested against their being a restraint upon the Executive, or connected with the appropriation bill, have supported them on the ground that they will limit, or restrict, or govern, our Ministers at Panama. One set of gentlemen tell us that they believe the mission to be wholly pernicious, and that they are in favor of the amendments, because, if they cannot defeat it entirely, they would render it as feeble and as harmless as possible. If they cannot crush it, they would at least press it into the dust, and this is to be done by an abstract proposition, that does not restrain the Executive, or affect the mission! Another set of gentlemen wish these amendments, because they would have our Ministers divested of power, and go to Panama merely to tell the Congress there that we have nothing to say to

them except to express our good wishes. Even the gentleman from Delaware, (Mr. McLane,) himself, told us very recently, that, if we did not take a vote upon the resolution and amendments, he should vote against the bill, although he had been in favor of it. How is this, sir, if there be no connexion between them? Will that gentleman tell us, that his vote upon any other bill in the whole list of the orders of the House, will be governed by any disposition which we can make of the propositions now before us?

Sir, it is clear, it cannot be disguised, that the amendments proposed, are, in effect, a condition annexed to the appropriation, and go to restrain, and limit, and govern, the Executive, in the exercise of his legitimate constitutional powers of conducting a foreign mission. Of the right and propriety of our doing this, I do not purpose to speak. The subject has already been exhausted. I will only remark, that, in my view, it is departing from our proper sphere, and encroaching upon another department of the Government; and that, if the present motions prevail, and the precedent be followed up hereafter, and become the settled practice, it will produce, in its effects, a greater change in the Constitution, than would any of the amendments which have been the subject of such protracted discussion during our present session.

**SURVEYS FOR ROADS AND CANALS.**





## SURVEYS FOR ROADS AND CANALS.

HOUSE OF REPRESENTATIVES, FEBRUARY 20th, 1827.

THE Military Appropriation Bill being under consideration, and the question being on a motion made by Mr. Rivers to strike out the following item, "For defraying the expenses incidental to making examinations and surveys, authorized by the act of 30th of April, 1824, \$30,000,"

Mr. Sprague spoke as follows:—

He had not intended to have uttered a word upon this subject, and had risen only in consequence of the extraordinary and unexpected course of argument adopted by the gentleman from Virginia, (Mr. Rives.) The proposition did not involve the question of the Constitutional power of Congress over the subject of Internal Improvements; it merely proposed to grant a sum of money to carry into effect a standing law. To this the gentleman objects, on the ground of abuses, and zealously maintains not only that the trust may be, but that it has been, grossly betrayed. He asserts that the surveys which have been made, by order of the present Executive, have been for political electioneering purposes; that they are upon little local objects, now, for the first time, suggested, and which have never been thought of, as national in their character. And, at the head of his list of new, unheard-of surveys, made for no sufficient reason, but only from sinister motives, by the President, he places those of the last year in Maine. Had the gentleman taken the trouble to inform himself upon the subject, had he even looked into the documents of this House, he would not have hazarded such an assertion. Several

years since, and long before the expiration of Mr. Monroe's term of office, the Board of Engineers, in reporting a system of general defence, distinctly pointed out the opening of a water communication between the Kennebec river and the St. Lawrence, as an object of national importance. During the last session of Congress, a petition for surveys was presented to the House, from a Convention composed of gentlemen from three several counties, containing an aggregate population of more than one hundred and twenty thousand persons. This memorial was referred to a committee, who made a report thereon, in which it is stated, that the object is "highly important to the nation at large, in reference both to its military, and commercial operations. The importance of this object, in this point of view, has not been now, for the first time, presented to the National Government. It has been embraced, not only in all the reports made to Congress, at different times, contemplating a general system of national improvements, but is also recommended in the report of the Engineers who examined the coasts of the United States, with a view to a general system of national defence;" and the Committee concluded by recommending the desired survey to the President. This is not all. A Committee of the Senate, also, upon a resolution referred to them, made a report, strongly in favor of the surveys in question, and urged them upon the favorable consideration of the Secretary of War. Besides all this, both the Senators, and all the Representatives, from Maine, excepting one, or, at most, two, united in a written request, that surveys might be ordered. But the gentleman says, that there were some Senators or Representatives, adverse to the Administration, and, with reference to them, some purpose was to be subserved by sending Engineers to Maine. I know not whence the gentleman derived his information; but, if it were true that there was a diversity of opinion, how does it happen that all united with one accord in this request? Could they expect that opposite and inconsistent political effects would flow from it, and thus the aims of both be accomplished? The gentleman says that he never heard such names as Kennebec, Androscoggin, and Ammoonisick, before. I will inform him that the Kennebec is a river emptying into the Atlantic, and runs nearly through the centre of Maine, traversing a populous and fertile region; and that its head waters approach near to those of the Chaudiere, a branch of the St. Law-

rence. The Kennebec is connected with our Revolutionary history as the avenue through which the memorable expedition under Arnold penetrated to Quebec, and is the shortest route from Boston, and a great portion of New England, to the capital of Lower Canada. The Androscoggin is a river which empties into the Kennebec. The Ammoonisick is a branch of the Connecticut river; and the canal route surveyed would connect the waters of the four last named rivers; and thence, as the gentleman from New Hampshire has just informed us, the communication was contemplated to extend to the great lakes. I am not speaking of the expediency of accomplishing these works; that remains to be determined; but of the proposed plans, that it may be seen whether they are of such little, pitiful, local character, as has been represented. But the gentleman says, Here is a Brunswick Canal projected, and who ever heard of such a place as Brunswick, in Maine! I can inform him that that canal was contemplated as a link, in the chain of communication by the Kennebec, and facilitating the intercourse between a portion of that river and the ocean.

I can tell that gentleman, too, that Brunswick, of which he has now heard for the first time, contains a public College, which I believe has been, and trust will be, of as much utility as the trumpeted University of Virginia, whose name has gone abroad upon the wings of the wind. But the gentleman insists that Engineers were sent by the Executive to Maine, only for political purposes. Such an idea had never before been suggested, and he, (Mr. Sprague,) verily believed, had not entered into the imagination of a single individual. He could answer, for one, that it had never crossed his mind, and he believed that he might safely aver the same for each of his colleagues. It is a discovery which belongs exclusively to that gentleman. And by what process of reasoning does he arrive at his conclusions? What proof does he adduce of sinister motives, and electioneering purposes? None, but his own want of information! He not only avows his ignorance of the geography of the country, but declares that he never before heard even the names of the places, and from this he deduces his inferences.

I had supposed that the course of correct logic and legitimate reasoning was, to begin with things known, and thence to proceed to deductions before unknown. But the gentleman has reversed

the rule. His streams of knowledge flow from a fountain of ignorance. He envelopes himself in Egyptian darkness, and, by his prolific imagination, conjures up frightful chimeras, which he presents to us as real substantial beings.

But our names Kenebec and Androscoggin, seem to grate harshly on the gentleman's ears. He facetiously asks his friend over the way, if he ever heard of them, and pronounces each with a peculiar expression of ridicule and mockery! It is true, sir, that Maine can pride herself upon no such Royal and Kingly appellations, either of rivers or counties, as boasted Virginia contains. We have no "King George!" no "King William!" no "Kings and Queens!" no "Prince Edward!" no "Prince George!" nor even a "Princess Ann!" But such as we have, we choose to retain, and would not exchange them, even for those more congenial to that gentleman's taste. Our names are derived from the Aborigines of our country, in whom freedom was personified; whose spirit was as lofty and unconfined as their own mountain winds; who bowed to no human power, but lived free, or ceased to live. Such are the associations connected with those appellations, and such are the feelings of the people among whom they abound.

Mr. Sprague said he would detain the House only to add, that the position which the gentleman from Virginia had taken, that the Treasury was now in a state of unusual embarrassment, was not, he believed, sustained by the fact. The idea, that there was now a deficit, arose solely from the supposition, that the old balances of the annual appropriation of \$10,000,000 to the sinking fund, were a continuing charge on the Treasury. This he was not prepared to admit; and so far differed from the opinion which he understood his friend from Massachusetts, (Mr. Dwight,) to have just expressed. But, if it were true, that those balances still continued to be chargeable,—then was the Treasury now in a better condition than it had been at any previous time, since the year 1819.



DRAWBACK.



## DRAWBACK.

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HOUSE OF REPRESENTATIVES, December 15, 1828.

THE Bill increasing the Amount of Drawback on Sugar refined within the United States being under consideration, Mr. Sprague spoke as follows :

He was glad to find that the gentleman from New York, (Mr. Storrs,) for whose opinion he entertained a high respect, agreed with him in the general principles which sustained the drawback system. That gentleman's opposition to the bill resolved itself into a question of fact, not of principle. He objected that it would interfere with our domestic sugar. Such, Mr. Sprague said, would not be the case, for two reasons : First, our domestic sugar is not suitable for refining, and the foreign sugar alone is used for that purpose.

[Mr. Storrs explained. He said that the foreign sugar was better adapted to the purpose of refining, from having been longer in the country, and better drained.]

Mr. Sprague resumed. Whatever might be the cause, the fact was not denied by any one, that our domestic sugar never goes to the refiners ; it is not suited to their use, as the foreign sugar is, and therefore does not come in competition. In the second place, we do not produce domestic sugar enough for our home consumption. We must, for some time certainly, continue to import largely from abroad. It is said that the quantity made in the United States is fast increasing, but it is to be recollected that our

population and consumption is fast increasing also, and we certainly cannot expect to be soon supplied from our own soil ; and, so long as we import for our own consumption, there certainly can be no competition in the foreign market between our own and foreign sugar.

The gentleman from South Carolina (Mr. McDuffie) insists that allowing this drawback is giving a bounty upon the exportation of sugars. He says that the importer pays the duty, and that afterwards we pay back the amount to the refiner, as a bounty ; that, the article having been brought into the country, repaying the duties is a dead loss of so much to the Treasury. This proceeds upon the assumption that the same quantity would be imported if re-exportation was not permitted. If such were the fact, the consequence would be to depress the price of domestic sugar—an effect which has been so much deprecated. Having the article here, if we prevent its flowing off in the usual channels of commerce, the accumulation inevitably reduces the price. Exportation of the foreign article is, in such case, as highly beneficial to the domestic producer, as if the same quantity of his own found a market abroad.

But this assumption is not founded in fact, nor in the principles of political economy. We now import for two purposes—domestic consumption and foreign exportation ; cut off one of these objects, and we can then import for the other only. To stop exportation will not increase the amount of our own consumption, for which alone we can then introduce it. To withhold the drawback is to prohibit exportation. If the American merchant pays five cents the pound to our Government, when the English merchant pays nothing, the latter can undersell the former by that amount in the foreign market. The competition cannot be sustained. You thus destroy the business of importation and exportation, and the manufacture in our own country. As this is so much controverted, permit me to illustrate my views. Suppose a gentleman in New York should now say to us, I will send abroad American produce, and therewith purchase, and then bring into this country, a hundred thousand hogsheads of sugar annually, in our own ships. I will then refine it, and transport the same to a foreign market, thus creating a market for the fruits of our soil, giving encouragement to our shipping, and to all the multiplied branches of industry connected therewith, and employ-

ing our seamen and our manufacturers without injury to any one, and all that I ask is, that you will not tax this branch of business—that you will not prevent my finding a market abroad. Should we, could we hesitate to grant such a request? Now, sir, this is, in truth, what is asked of us by several instead of one, and it is what we propose to grant by this bill. The gentleman from South Carolina (Mr. McDuffie) asks, why should not the carrying trade pay a part of the burthens of Government? Sir, those concerned in it now pay their full proportion. Are not your hemp and iron, and other materials for ship building now taxed, and severely too? Does not commerce, by imports, pay all the burthens of Government? And do not those concerned in the carrying trade, the merchants, the ship owners, the ship builders, the seamen, pay, as consumers, their full proportion of all these imports? Why, then, (Mr. S. asked,) should you think of taxing the carrying trade upon the ocean as a branch of business, any more than the transportation upon the New York canal, or upon our roads, or our great rivers? Why should the employment of ships be oppressed any more than of canal boats and steamboats? Mr. Sprague said, he might ask why should not the manufacturers, why should not the cotton planters, pay a part of the burthens of Government? The gentleman will tell us that they pay enough already; and I answer that the carrying trade pays enough and more than enough now. The gentleman asks also, why should we not make foreigners pay a part of the expenses of our Government? My answer is, because they will not consent, and we have no means of coercion. We may indeed impose the duty of five cents the pound upon this sugar; but we must recollect that foreigners are not obliged to buy, and will not buy of us and pay this duty, when they can purchase of others without paying it; they will take it directly from the West Indies to their own ports, and not through ours. Sir, we have tried the experiment; we now retain one cent the pound duty, and of course enhance the price so much to our exporter; and what has been the consequence? The almost total prevention of the trade. The whole amount of drawback upon refined sugar, is only eleven thousand one hundred and sixty-eight dollars, while the duties upon imported sugar are nearly one million seven hundred thousand dollars. The gentleman from New York, (Mr. Storrs,) says the business is so small that it is hardly worth discussing. It is, indeed, insignificant in amount now, and



must be so as long as your laws make a discrimination against it ; but the object of this bill is to place our citizens upon a just equality with their foreign rivals, and thus to enlarge their business, and add to the wealth and prosperity of the nation, without injury or inconvenience to any man.

TONNAGE DUTY.



## TONNAGE DUTY.

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EARLY in the session of 1828-9, Mr. Sprague offered a Resolution, instructing the Committee of Ways and Means, to inquire into the expediency of repealing the Tonnage Duties upon ships and vessels of the United States, and such foreign vessels, as had a right to be put upon an equality with our own, which was adopted by the House. Mr. Sprague, subsequently, by authority of that Committee, of which he was a member, made a full Report, accompanied by a Bill to repeal those duties. It passed the House at the same session, but was not then taken up in the Senate. At the next session, it passed both branches, and became a law. The following speech was made in the first debate upon the subject in the House.





## TONNAGE DUTY.

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HOUSE OF REPRESENTATIVES, FEBRUARY 4th, 1829.

THE Bill to repeal the Tonnage Duty upon ships and vessels of the United States, and upon certain foreign vessels, being under consideration, Mr. Sprague addressed the House as follows :

He said that, as he had originally called the attention of the House to this subject by resolution, and had been the organ of the Committee of Ways and Means in reporting the bill, it was, perhaps, his duty to make some reply to the gentleman from Georgia, (Mr. Gilmer,) who had just resumed his seat. The bill simply proposes to repeal the tonnage duties, and thereby to relieve the people from a burthen—a measure certainly desirable in itself, and which every one must readily accede to, unless strong objections are urged, and injurious consequences pointed out. It is said, in the first place, by the gentleman from Georgia, that the tonnage duties are easily collected, as no officers are created or supported for the purpose. So, sir, it may be said of the tariff duties ; they are received by the same persons—the collectors of the customs. But will that gentleman, or any other, insist that this is a good reason for continuing those duties ? If we propose to take from a citizen a portion of his property, and he remonstrates against it as unnecessary and unequal, is it any sufficient answer for us to tell him that agents are already appointed, and we can take it with facility—with perfect ease to ourselves ? Again, it is objected that the tax is a light one. Sir, (said Mr. S.,) if the duty be small in amount, still, if it be unnecessary, or une-

qual, it ought to be removed. It is not the magnitude, but the necessity and justice, of any tax, that determines the propriety of imposing or continuing it. The people will cheerfully submit to any burthens which the real wants of the Government, for legitimate purposes, demand; and they will acquiesce in no other, however trifling in amount. An illustration of this is afforded in the tariff law, to which the gentleman has alluded. Is it the magnitude of the impost that has occasioned the state of excited feeling at the South against it? No, sir, I am persuaded that their patriotism would have paid to the uttermost farthing, without a murmur, if they had been convinced that it was equal and just, and constitutionally required for the purposes of necessary revenue; but, because they believe it to be the reverse of all this, they protest against and denounce it; and they would remonstrate against any and every imposition, however minute, which they considered as of the same character. In referring to the tariff, I am but following the gentleman from Georgia. I do it merely to illustrate my views, but without any intention to discuss that subject, or even to express an opinion respecting it.

I am not disposed to exaggerate or magnify. I will not say that this tonnage duty is, of itself, a grievous and intolerable burthen, but it is one of several impositions which, in the aggregate, are grievous, and almost insupportable; which are now oppressing and nearly overwhelming the navigation of the country. The amount of this tax is about one hundred thousand dollars a year. This is something—it is worthy of our attention. But the evil is aggravated by the manner of collecting it, which is unequal and vexatious. The law imposes six cents the ton upon every vessel, to be paid annually by those enrolled and licensed for the coasting trade and fisheries, and upon each entry into any port of the United States of those sailing under a register. The license remains in force but for one year; it can neither be originally obtained, nor renewed, except in the port to which the ship belongs. If, therefore, pursuing the usual course of trade, a vessel sail in the autumn from Maine to the West Indies, and thence to New Orleans, and is afterwards engaged in the coasting trade between that city and Baltimore, Philadelphia, or New York, she must sail under a register, and pay six dollars upon the hundred tons burthen, for every entry into each port, even if it be as often as once a fortnight, or every week, or she must incur the danger,

delay, and expense, of a voyage to the extreme North, for the sole purpose of exchanging her documents ; and, at the expiration of the year, or sooner, if she shall have visited any foreign port, the same hazardous, profitless, and vexatious process must be repeated. It operates also with great inequality, upon the various descriptions of foreign trade. A ship, engaged in long voyages to distant regions, will pay but little ; while those trading with our immediate neighbors, as between New Orleans and Havana, will find the frequent recurrence of the imposition to be of serious moment. Still more vexatious is it at the other extremity of the Union, where the proximity of the provinces of New Brunswick, Nova Scotia, and the Canadas, is such, that our vessels may be subjected to this duty not only every week, but every day.

In the practical operation of this law, therefore, upon certain classes, and these least able to endure it, the burthen is far from being light or trifling. The injury falls, indeed, in the first instance, upon the ship owners ; but it is not confined to them. The gentleman from Georgia, with his usual candor and intelligence, has admitted that it extended also to the agricultural interests, of which he is a representative ; and he might have added that the relief now proposed is, in its effects, for the benefit of every section of country, and all classes of its inhabitants. Every burthen upon the vehicle is a tax upon transportation, and diminishes the facility of intercourse between the States. The South are interested in enabling our ships to convey, for their use, the articles which they consume, and also to transport their great staples to a market, as cheaply as possible. So, also, the manufacturers of the North and Middle States must be desirous of receiving their bread stuffs and raw materials, and of sending their fabrics in return, without unnecessary obstruction or expense. Not only manufacturers and planters, but the farmer, mechanic, and artisan, nay, every man, who either produces or consumes, buys or sells, any article that is transported in a ship, whether coastwise or in the foreign trade, is, in some degree, benefited by relieving its burthens, and reducing the rate of freight.

This is a familiar principle. To facilitate transportation is the object of all works of Internal Improvement, whether by the States or the Union. Why then should we throw obstructions, and impose tolls, upon the great highway which the beneficence of Providence has given us along the sea-coast, when we are expending

millions to create artificial communications, by roads and canals, where nature has denied them?

The gentleman from Georgia stated that this hundred thousand dollars tonnage duty never reached the National Treasury. This is certainly erroneous. It was imposed for revenue; is required by law to be paid into the Treasury; and the Report of the Secretary every year shows that it has always been actually received. But the gentleman did not, I presume, mean to be understood literally, but only that the expenditures for lighthouses, buoys, and harbors, upon which he earnestly insisted, exceeded the amount of the receipts from this source. These disbursements are made from the mass of the national treasure, without designation of any particular fund from which they shall be drawn. There was, indeed, a law passed in 1804, imposing an additional duty of fifty cents the ton upon foreign ships, under the denomination of light money, and which is still in force, and will remain so, unaffected by the passage of the present bill.

It is insisted that the present tax ought to be continued, because of the amount paid for the benefit of navigation, in the erection and maintenance of lights, piers and harbors. This objection, at first view, seems entitled to consideration; but it will be found, I think, upon reflection, to involve an error of principle, and a mistake of fact. What is the general principle upon which it would rest? Is it not this, that each branch of industry, that every national establishment, should directly pay for the expense of supporting, and the protection extended to it? If this be correct, why were the direct taxes and internal duties repealed? Are not the expenditures for the support of civil government, of the army, the judiciary, of almost all our institutions, intended, primarily, for the protection of the soil, and the person of the citizen? Why, then, should we not have a direct imposition upon real estate? Why not impose a capitation tax, and an excise upon every species of domestic manufacture, especially those peculiarly protected? The answer is ready. We can derive sufficient revenue much more advantageously, from other sources. The public welfare is promoted by sustaining and encouraging these departments of industry. And so it may be said, emphatically said, of this. The national wealth, and security, and happiness, are advanced, by protecting and cherishing your shipping, and relieving it from direct taxation. You have other objects in abundance, from which you



can much better derive revenue for this and every other expenditure. The true question for the financier to solve, in establishing duties is, upon what objects can they be imposed most equally, justly, and beneficially, for the Union?

This objection, of the expenditures for lighthouses, beacons, and harbors, must be founded upon the idea that they are exclusively for the benefit of ship owners. But is not commerce, as distinguished from navigation, vastly more interested in them, inasmuch as the cargo is of greater value than the ship, and it is more important to preserve the lading than the vehicle in which it is transported? A more enlarged and correct view of the subject will enable us to perceive that the salutary effects of these establishments are not exhausted upon particular sections of country, or a certain portion of its citizens, but are universally diffused. Let me suppose that all the guides, and beacons, and securities, for entering and departing from our rivers and harbors, were removed, and that they were as difficult of access as the Columbia river was represented, in the recent debate upon the Oregon bill, where a ship must lie off its mouth some months before an entrance can be effected, and nearly as long within, perhaps, before a departure can be hazarded, would not every one, who participates in the comforts of civilized society, by purchasing for his own use, or selling to others, any article of commerce, suffer from such a condition of our coasting trade? And would it be felt by any more severely than by those of the South? If there was not a single merchant ship owned in the United States, still we must and should have these conveniences, aids, and facilities, so long as we have any external commerce. It would, in such case, be carried on exclusively in the ships of other nations; but, if great and dangerous obstructions existed to their ingress and egress to and from our harbors, so that the dangers, and delays, and expense of the voyage, were doubled, must they not receive, and must we not, as their employers, pay twice as much for freight and insurance? Sir, if we had no ships, still, as a mere matter of national economy, we should erect and maintain these necessary facilities to internal and external commerce. But let us, for the sake of the argument, assume it to be a correct principle, that each branch of industry should be required to pay directly the expenses of fostering and protecting it, and also that commerce and navigation alone are aided and relieved by these

expenditures, which have been so strongly urged against them. Does not the objection, then, involve the error of supposing that they do not now pay more than the amount of those disbursements, when, in truth, they pour millions upon millions annually into your treasury? Hardly a fraction of the national revenue is derived from any other source; they are the fountains which have supplied all your wants, given sustenance to all your great institutions, and infused health, vigor and activity into the body politic. If, then, we are to keep an account current, and charge to commerce and navigation the expenses of their protection and advancement, let us have the justice to credit to them the moneys which they pay. If we take so limited a view as not to regard the facilities extended to commerce as benefits conferred upon the nation, let us also confine our views to them as payers of the imposts, without inquiring what proportion may eventually be reimbursed by consumers. If we look not beyond the agents, but charge them as recipients of our bounty, we should also put to their credit the sums derived from them.

The gentleman from Georgia has insisted that there is no branch of industry so lightly taxed as the shipping. I confess I am at a loss to conceive by what process the gentleman has arrived at such a conclusion. Is agriculture taxed? Are manufactures taxed? Is there one other great national employment that is taxed at all? In what sense, then, can it be said that this is taxed less severely than they? Sir, those concerned in navigation pay every duty and impost which other portions of the community bear. The mechanics, laborers, and sailors, employed by the ship builder and the ship owner, are great consumers of articles subjected to imposts,—none greater; they pay more than five times as much in duties as the same number of agricultural laborers in the Southern climate. But, besides this, ship owners contribute a vast amount in duties upon the materials of ship building. Under the existing laws, a ship of three hundred tons burthen pays no less than one thousand one hundred and twenty-six dollars; and the present tonnage of the United States amounts to nearly six millions.

The amount of tonnage which we had on the thirty-first of December, 1826, would pay, in imposts upon its materials, by the present laws, five millions seven hundred sixty-two thousand four hundred and seventeen dollars. The gentleman has remarked that the tonnage duty has remained without increase or change



since the year 1790. That is very true, sir, and it is a grievance that it has so continued. It was originally imposed merely for revenue, when the necessities of our country imperatively demanded it. Then, just emerging from the protracted and desperate struggle of the revolution, we were in a state of absolute exhaustion, without money or credit, or revenue, and with an immense public debt ; every source of income was put in requisition ; not only our vessels, but real estate and domestic manufactures, were subjected to contribution ; since which, in the prosperity of the country, the latter have been relieved, the former has not. Nay, so far from experiencing any alleviation, the burthens of our ships have been aggravated nearly sixfold since the year 1790 ! Then a vessel of three hundred tons burthen was subjected to duties upon hemp, iron, duck, cordage, etc., only to the amount of one hundred and ninety-seven dollars and thirty-one cents. Now, as already stated, the same ship pays, upon those articles, no less than one thousand one hundred and twenty-six dollars and eighty cents.

Under the law of 1790, the imposts upon the materials for constructing one million five hundred and thirty-four thousand one hundred and ninety tons of shipping, the quantity owned in the United States in 1826, would be one million eight thousand nine hundred and eighty-five dollars ; and, under the existing tariff, the enormous sum of five millions seven hundred and sixty-two thousand four hundred and nineteen dollars—an increase of four millions seven hundred and fifty-three thousand four hundred and thirty-two dollars, by successive acts of legislation since the year 1790 ! The same quantity of tonnage now contributes annually, in these duties, more than one million one hundred and fifty thousand dollars.

Why were these additional burthens imposed ? Was it not for the benefit of agriculture and manufactures ? Has not the navigation been oppressed and weighed down to aid the grower of hemp—the iron masters—the makers of duck and cordage ? Super-added to all others remains this direct tax, the tonnage duty, from which we now seek relief. And why should it be continued ? Why not as well burthen the machinery of manufactures as these vehicles, the machinery of commerce ? Why not, with the same justice and expediency, levy a duty of an hundred thousand dollars per annum upon cotton gins, which now pay, in imports upon

materials, but a fraction of the amount to which our vessels are subjected. But if a law imposing such a tax were now proposed, should we not hear, borne upon every breeze from the South, a note of remonstrance, louder by far than even that which was raised by the tariff? Far be it from me to assent to such an imposition. I only present it as a parallel case, which may come home to the sensibilities of others. Sir, the true principle which should guide the statesman in matters of finance, is to derive revenue from those sources which are least onerous, most equal, most just, and most beneficial to the community.

It is said that this toll ought to be continued for the purpose of discharging the public debt; and that, when that shall have been accomplished, we will have a general reduction of duties. The national debt is not wholly redeemable until the year 1835, and, if we should reduce our income tenfold as much as this bill proposes, we shall still have abundant means of paying the whole before that period shall arrive. Our finances are in the most prosperous and enviable condition. From the last annual Report of the Secretary of the Treasury, it appears that we shall hereafter be able to apply twelve millions of dollars, annually, to the principal and interest of the debt.

Now, as the stocks are not all redeemable at the pleasure of the Government, nor until the year 1835, the semi-annual application of six millions of dollars to all, excepting the three per cents. of the revolution, as fast as they shall become payable, will leave, in the year 1832, a surplus of nearly three millions, which cannot be applied; and, in 1833, more than nine millions; in 1834, more than six millions; and, in 1835, above seven millions; making an aggregate exceeding twenty-five millions of dollars, as appears by the following Statement.

[Mr. Sprague here presented a tabular Statement.]

The three per cents. amount to thirteen millions two hundred and ninety-six thousand two hundred and forty-nine dollars. The highest market price has been eighty-five per cent. To purchase the whole at that rate would require the sum of eleven millions three hundred and one thousand eight hundred and twelve dollars; which would be paid by the above surplus of two millions eight hundred and eleven thousand four hundred and twelve dollars in 1832, and of nine millions thirty-six thousand five hundred and seventy-two dollars, in 1833; and leave, in the latter

year, unapplied, the sum of five hundred and forty-six thousand three hundred and fifty-two dollars, which, added to the surplus of 1834 and of 1835, will make an aggregate of no less than fourteen millions four hundred and forty thousand one hundred and six dollars, which must remain inapplicable in the years 1833, 1834, and 1835, after the total extinction of the national debt. Subsequent to that period, the whole annual twelve millions of dollars will be liberated.

If it should be thought in any degree doubtful whether the revenue will hereafter yield so much as twelve millions of dollars annually for the discharge of the debt, I will submit a calculation founded upon the amount of ten millions dollars only, the sum which is actually appropriated by law to the sinking fund; and supposing, also, that the three per cents. are to be paid at par, instead of being purchased at their market value, and it will appear that, even then, there will be a surplus, in the year 1835, of two millions three hundred and fifty-one thousand one hundred and thirty dollars, as is fully exhibited by the following Statement.

[Mr. Sprague here presented a tabular Statement.]

Thus, if we now repeal the tonnage duties, still, before the expiration of the year 1835, the present permanent appropriation to the sinking fund will have wholly extinguished the public debt. How are the ten millions of revenue, now annually devoted to our creditors, then to be disposed of? Remain idle in your hands it will not. The idea of accumulating treasure for future emergencies in a Government like ours, is vain and illusory. No political artist can so construct the vaults of your Treasury as to prevent its escape. It cannot be permitted to rest in our coffers. How, then, is it to be disposed of? Shall it be expended by the National Government? I confess I should look with fearful forebodings to the day when millions and millions will be soliciting us to appropriate them according to our pleasure or caprice. Hitherto we have been eminently distinguished for the purity and uprightness with which our national finances and disbursements have been conducted. We have been excelled by no Government on earth. But may not our purity have been, in some measure, owing to our poverty? During the whole term of our national existence, we have been in debt, and public opinion has imperiously demanded the scrupulous application of all our means

to the discharge of the claims of our creditors. Have we not reason to apprehend that the sudden influx of great disposable riches may bring in its train temptations to profusion, extravagance, and profligacy? I wish not to see the time when ten or twelve millions of dollars shall each year be poured down, as it were, upon that area, to be scrambled for here by the Representatives of the people. I should tremble lest disinterestedness, integrity, and public virtue, should be borne down by selfishness, avarice, and corruption.

Shall we adopt the proposition to distribute the surplus revenue among the States? This may be less dangerous than expending it ourselves; but why, I ask, should we take money from the people, merely for the purpose of returning it to them again?—or, rather, for the purpose of restoring a part only; for the design is to keep up our system of imposts, and, from the amount received, to deduct, first, the expenses of collection, and the losses occasioned by fraud and accident, before it reaches the treasury; then the expenses of managing and disbursing it, and the defalcations from negligence or design, causing it to pass through the hands of many agents, to the palm of every one of which some portion will adhere, and then to return the part that will remain to the people from whom it was taken—not, indeed, to the same persons, nor to the same State; that will be impossible. Whatever rule of apportionment may be adopted, the distribution must be unequal, because the payment of duties cannot be in conformity with such rule, but is governed wholly by consumption. Thus, a State, whose citizens should contribute a fifth part of the whole imposts, might receive only one tenth of the sum distributed. The scheme, in effect, is this: Collect ten millions, of which one State, New York, for example, shall have paid two; subtract the expenses and losses, and then distribute the residue, of which the same State, by the ratio adopted, may be entitled to receive less than one-tenth,—not half the sum she contributed. I am confident that the gentleman from Georgia, and many others, will doubt the constitutional right in Congress to collect revenue, not for national objects, nor any purpose for which the Federal Government was established, but merely to maintain a system of unequal donations to the several States.

Sir, we have but one course to pursue, and that is to reduce taxation. I would do so immediately to a much greater amount



than is proposed by the present bill. It is enjoined upon us by the dictates both of duty and of policy. We have no moral right to burthen our constituents beyond what the legitimate objects of the Union demand. I would not be niggardly. I would sustain the great institutions of our country upon a firm and extended basis. I would exercise true liberality, equally removed from parsimony on the one hand, and profusion on the other. But I would take from the people no more than the necessities of the General Government may require. To that extent it is our duty to go, and to such taxation they will always cheerfully submit, however onerous; but, beyond that, they will not readily acquiesce in any requisitions, although apparently insignificant. You can make no disposition of unnecessary revenue, so just and so beneficial to the nation, as to leave the fruits of the industry of the citizen in his own hands, and subject to his own control. Your national wealth must consist of the riches of individuals. Your treasury must be the pockets of the people; let them be replenished by the benign influence of enlightened and paternal legislation, and your coffers are always full; you have treasures inexhaustible. It is conceded, indeed, it cannot be denied, that there must be a reduction of duties. The question is, when shall we begin? The gentleman from Georgia insists that they shall remain untouched until after the redemption of the public debt, and then be at once removed or diminished. But I contend that we should begin now. Sudden transitions and great revulsions in trade are to be avoided. It is desirable that changes in the political, like those of the natural world, should be effected by insensible gradations. In conducting the affairs of a great nation, we should at least exercise the moderate prescience and the common prudence of anticipating and preparing for the exigencies which are fast approaching. But, besides this, is it a correct principle that we should wait until we can remove duties from every thing before we shall relieve any? Is there no choice in the objects of taxation? Are we to exercise no judgment, and no discrimination? And what are the duties to be repealed, upon the extinction of the national debt? We have the report of a Committee of the Senate, made two years since, containing a list of articles from which the imposts may then be wholly removed without affecting domestic industry.

[Mr. Sprague here presented a Schedule of Articles.]



Most of these are mere luxuries ; some of them pernicious luxuries. Why, then, should we not now reduce the imposts upon articles of necessity, and continue them so much the longer upon those of a different character? And, if a selection is to be made, what object can bear a comparison with navigation, which ministers to your convenience and necessities in peace, and to your safety, strength, and glory, in war? It is our greatest domestic manufacture. It gives constant employment to more than thirty thousand mechanics and laborers, and nearly a hundred thousand seamen, upon which nearly half a million of persons are directly, and a much larger number indirectly, dependent for subsistence ; thus affording a great and certain home market for nearly twenty millions of dollars' worth of the products of the farmer and the manufacturer. And shall we deny the small boon that is now asked for this great, suffering, national interest—embracing all classes of citizens, and every section of our country—until we can repeal the duties upon silks, wines, and spices? Shall we refuse to grant any, the slightest relief, to the oppressed industry of the mariner, artisan, and laborer, lest we should thereby occasion the somewhat longer continuance of the imposts upon the gorgeous apparel, the liquors, and condiments, of the luxurious?

Another reason assigned by the gentleman why he will not extend relief to navigation, which is acknowledged to be suffering, is, that the South is burthened—his own constituents are depressed. And will he act upon the principle of bringing others down to be companions in misery? Would he make them wretched merely because he is so? Would he refuse his aid to extinguish the flames of his neighbor's house, because his own had been consumed? I forbear to comment upon the moral character of such a rule of action. I know the gentleman too well to believe that he would deliberately sanction it for a moment. I am constrained, then, to suppose that the reason why it is so strongly insisted that this interest shall not be relieved until others are disburdened is, that it is wished to keep this measure in reserve, to be given hereafter as an equivalent for others which the gentleman has at heart ; that it is designed to make it one of the elements of a legislative combination, by the strength of which propositions shall be forced through the House, which never could succeed by their individual merits. Sir, in my judgment, such is not the course of duty.

Let each measure be decided by its own character ; let this bill stand by its own strength, or fall by its own weakness. I would not have it upborne on the current of legislation by extrinsic and adventitious aid, nor pressed down by foreign weight.

We have heard much of retrenching the expenses of Government, and exonerating the people from useless impositions. Gentlemen have now an opportunity of acting upon those commendable principles, and gratifying their laudable desires. I had hoped that this proposition would conciliate general support, and unite even those who entertain the most irreconcilable opinions upon other subjects ; that the friends of Internal Improvement would perceive that it accorded with their views, and promoted their ardent wishes, by facilitating the communication and internal commerce among the States ; and that those who are conscientiously adverse to the exercise of the power of making roads and canals, would unite in dispensing with an unnecessary and vexatious tax, since the revenue derived from it cannot be required for any purpose which they do not deem an infraction of the constitution. The anti-tariff gentlemen will, I trust, on this occasion, act upon their established principles, of resisting and removing all unnecessary taxation ; while the friends of domestic industry will, I presume, readily yield some little relief to the greatest of all American manufactures, and eagerly avail themselves of an opportunity to make some slight, very slight atonement, for the burthens imposed and injuries inflicted by them, last year, in the passage of the tariff.

Sir, the bill before us will be productive of some good and no evil. It is a measure propitious to the industry of various classes of citizens, and beneficial to the community at large, without involving the hazard of an injury or inconvenience to a single individual.



INDIAN TREATIES.





## INDIAN TREATIES.

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SENATE, JANUARY 14, 1830.

A BILL to appropriate Forty Thousand Dollars "for the purpose of holding Indian Treaties and extinguishing Indian Titles in the State of Indiana," being under consideration, Mr. Sprague addressed the Senate as follows :

He objected to the amount of the appropriation contained in the bill. The sum of forty thousand dollars was much greater than could be necessary to defray the legitimate expenses of holding a treaty. He presumed, therefore, that it was intended to form a part of the consideration to be given for the lands, which were to be obtained by the treaty. This, he considered improper, because, if the money was paid to the Indians immediately, the treaty would be carried into effect before it should have been submitted to the Senate for their approbation and ratification ; thus depriving that body of its constitutional right, and executing the treaty without their sanction. The proper course was to stipulate in the treaty what should be done by the United States—then to submit it to the action of the Senate, and, if approved by them, execute it in good faith according to its terms.

Mr. White, Chairman of the Committee on Indian Affairs, having made some remarks, Mr. Sprague continued the debate as follows :

He said that the explanation of the Senator from Tennessee, who was at the head of the Committee on Indian Affairs, had not

removed his objections to the amount of the proposed appropriation. Is the sum of forty thousand dollars necessary to defray the expenses of merely holding a treaty? With what nation does it cost half that sum to negotiate? But it was said we must make provision for presents to be made to the Indians at the time of the negotiation. He believed that he understood how this power to make presents had been sometimes exercised. When the Indians, the primitive, original proprietors of the soil, were unwilling to part with their lands, particular chiefs, or other influential individuals, were applied to, their necessities and their cupidity were appealed to, their passions and appetites were solicited, and presents were made to them to purchase their consent and their influence, to sacrifice the interest of their tribes, to betray the trust reposed in them by their nation. Such practices he reprobated, and he would not willingly put into the hands of our commissioners the means of resorting to them. He would appropriate a sufficient sum to pay our own agents and commissioners, and their necessary expenses. He would leave the other party with whom we are about to make a solemn compact, to act freely and independently, according to their own conviction of their interest. Upon these terms he would treat, or not at all. He wished not to acquire their property, nor divest them of their lands, unless it were done honestly, fairly, and justly.

Mr. Hendricks, Mr. White and Mr. King having addressed the Senate, Mr. Sprague replied as follows:

He said that he was not opposed to negotiating with the Indians for the object of the bill, but to the means proposed in order to attain it. The Senator from Tennessee (Mr. White) supposed that he had misapprehended what was meant by the term presents. He willingly accorded to that gentleman the utmost purity of intention; but, whatever might be intended by him, he (Mr. Sprague) had not misunderstood the manner in which this power to make presents had been sometimes exercised. We do know, that, in order to get a treaty, secret and confidential agreements have been made by our commissioners with certain chiefs, to give them large sums to procure their assent and influence, agreements which they dared not make known to the tribe, and which were to buy them over to our interest, and to render them false and treacherous to their own people, who had confided to them a sacred

trust. Mr. Sprague said he wished every agreement to appear on the face of the treaty, that they might know what stipulations had been made, and with whom, and, therefore, was unwilling to place in the hands of our commissioners large sums of money which they might dispose of in secret and confidential negotiations with individuals. There was no necessity for giving to our agents such a power.

It was said, indeed, that we must subsist the Indians during the negotiation, and not only the chiefs, but the warriors, and their women and children; that all must be drawn from their homes to the treaty ground; that rations must be issued for their daily food; and something in the nature either of presents or payments must be given them in hand. And why is this necessary? How do the Indian chiefs subsist themselves, in their own councils, when we are not present? What is the necessity of gathering together the females and their infants? You thereby place them in our power, and, after a short time, their own food being exhausted, we can offer them the alternative of submission to our terms, or starvation. He believed he understood what had sometimes been the process of obtaining a cession of Indian lands. The chiefs, the head men, the wisest and most sagacious, were opposed to selling their country. They were operated upon not only directly, but indirectly. Large quantities of goods and merchandise, particularly such as are most attractive to the savage taste, are ostentatiously displayed to the assembled multitude; they are told, if a bargain shall be concluded, these shall be yours; if not, even the daily food which you now receive shall be withheld; the women and children are brought to influence their husbands and fathers by their entreaties and their wants; the young and thoughtless among the warriors are made to press upon the older and more reflecting, and all to operate upon the chiefs, to subdue their firmness, and seduce them to our will. We may be told that this is the only mode of treating with the Indians, and that we cannot otherwise obtain their lands. If it be so, (said Mr. Sprague,) which he doubted, still the end cannot sanctify such unhallowed means. These feeble remnants of once mighty nations are in our power, at our mercy. He wished to obtain no treaty from them by the weight of such extraneous aid as the measures he had described. If, without such appliances, they would not cede to us the inheritance of their fathers, let them retain it.



## FOOT'S RESOLUTION.





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ON the twenty-ninth day of December, 1829, Mr. Foot, of Connecticut, offered, in the Senate of the United States, a Resolution, instructing the Committee on the Public Lands, to inquire into the Expediency of restricting the Sales and Surveys of the Public Lands. This gave rise to the celebrated debate on Foot's Resolution, in which Mr. Webster made his great speech in answer to General Hayne of South Carolina. In the course of that debate, Mr. Benton made a vehement attack upon the North, and particularly upon New England, in answer to which, Mr. Sprague made the following Speech.



## FOOT'S RESOLUTION.

SENATE, FEBRUARY 3, 1830.

FIRST Speech by Mr. Sprague in the Debate on Foot's Resolution, in the Senate, on the 3d of February, 1830.

He said it was with reluctance that he entered into this extraordinary debate. The gentleman who had just resumed his seat, (Mr. Benton,) had most gratuitously given to it an unpleasant sectional character. Some portion of his remarks related merely to measures of a party, in opposition to the administration of Mr. Jefferson and Mr. Madison. Had he confined himself to those acts, I should not have felt myself constrained to participate in the discussion, because I was, from the first, politically opposed to them, and have never changed my sentiments. I mention this, that the position which I occupy may be distinctly understood. Animadversions upon party measures, affect no particular geographical division of the country, but only the individuals who sustained them, wherever they may reside. But the gentleman has assailed all the Northern States, and particularly those of New England; accusing them of narrow views, and of systematic hostility, and injustice towards the West; while, on the other hand, he has lauded the South as her generous, liberal, and magnanimous friend. Such assertions, in order to gain any credence, must be supported by proof; of this, the gentleman seems to have been aware, and has accordingly attempted to sustain them by a recurrence to historical facts. I shall endeavor concisely to remark upon such as appear to be of importance enough to deserve

attention, and which have been stated with sufficient distinctness to render them susceptible of being followed.

He has gone back to the days of the Old Confederation, and the records of the Continental Congress, and dwelt upon certain proceedings, in 1786, relative to the defence of what was then the Western district of Virginia—now the State of Kentucky. A proposition was made to send two companies of federal troops to the Rapids of the Ohio. It is to be recollected that we had just then emerged from the war of the revolution; that tremendous struggle, in which we had strained every nerve to agony, and had sunk down to a state of exhaustion—destitute of money, without revenue and without credit. To send two companies to the then distant wilderness on the Ohio, was a severer burden upon the public finances, than to send thousands now to the mouth of the Columbia. Upon this proposition, the votes of New England were equally divided. During its pendency, on the 21st of June, a motion was made by Mr. Lee, a delegate from Virginia, to add two companies more, making four in all, *for her defence*, which was supported by that State alone, all the delegates from the other States, excepting one from Georgia, answering in the negative.

It was upon his stating this vote, that the gentleman exclaimed, in tones of delight and exultation,—MAGNANIMOUS VIRGINIA!

She is a great and magnanimous State. I would not detract aught from her merits. New England seeks not to prostrate the fabric of others' fame, in order to erect her own from its fragments; she is rich enough in her own splendid materials. But the gentleman has not been fortunate in selecting this vote, given *for her own exclusive benefit* against all the other States, as an illustration of her disinterestedness and liberality. To attribute in this instance so great merit to her, is an implication of demerit in all the others, which I leave to be repelled by their older and abler representatives around me.

On the 29th of June, eight days only after the almost unanimous refusal of Congress to send more than the two companies to the defence of Virginia, a committee, consisting of two members from that State, and one from Massachusetts, made a report in favor of authorizing the Commander of those two companies, to march into the Indian country and make war, or treat for peace, as he should see fit; and also to call, at his pleasure, upon the



Governor of Virginia, for one thousand militia. This report being under debate, a motion was made to postpone it for the present, in order to take up another proposition, which, after reciting that there was not sufficient evidence of Indian depredations "to justify carrying war into their country," recommended the adoption, "*without delay*," of "such measures as shall effectually secure peace to the Indians, and safety to the citizens inhabiting the frontiers of the United States." This motion, the Senator from Missouri pronounced "cold-blooded, cruel, and inhuman—equalled only by the National Assembly of the French Revolution; which, when their fellow citizens were falling around them by the daggers of assassins, passed to the orders of the day." It was made by Mr. Pettit of Pennsylvania, and there were more votes for it out of New England than from within it.

But if the gentleman's sensibilities were so much outraged by the idea of passing over that report in favor of war and bloodshed, even for a moment, in order to take up a substitute of peace and security, what will he say—how will he bear the shock, when he finds that a motion was made—not by a delegate from New England, nor even from the north of the Potomac, but from the south, from Georgia, to postpone the whole for six days; and that there were no less than fifteen voices in the affirmative, and two-thirds of them from without the limits of New England! Nay, more, that this very report, which it was so monstrous and horrible to hesitate even for a moment in adopting, was, upon the final question, absolutely rejected, and that, too, not by a bare majority of the Congress, but by a vote of two to one—six States to three; and of the six, two only being from the Northeast! And of the individual delegates, seventeen voted in the affirmative, and nine only in the negative; Mr. Houston, of Georgia, being excused at his own request!

I have been accustomed, sir, from my earliest recollections, to cherish the memory of those who composed the Continental Congress with reverence and gratitude. I have supposed that the very existence of this great, prosperous, and happy Republic, demonstrated the elevation of their intellectual and moral character, their wisdom, purity, and beneficence;—that their monuments were everywhere, but over their graves. Is all this illusion? Is their epitaph still to be written? And shall we now inscribe upon their tomb—*Here lie the members of the Continental Congress*

*of 1786—those cold-blooded, cruel, inhuman monsters, who are to be paralleled in all history only by the fiends of the French Revolution, who washed their hands in the blood of their brethren!!*

There are some exaggerations too extravagant, even for the figures of rhetoric, or the fictions of poetry.

My own section of country might be well content to appear sombre and unlovely to that vision which can present the revered patriots of the revolution in colors so dark, and with features so distorted.

The next topic of crimination against our forefathers, was a clause originally inserted in the ordinance for ascertaining the mode of disposing of lands in the western country, when it was reported by a committee, in 1785, and which prohibited the sale, by the public officer, of a second township, *by sections*, until after all the first should have been disposed of. It arose from an evident solicitude for the security of the frontier settlers, and a desire to keep them in some measure compact, that they might be competent to their own protection, instead of scattering over immense forests beyond the reach of timely succor. This is well known to have been the policy of Washington. It is not a little singular that the gentleman should have made this a theme of reiterated and vehement condemnation, when he had just before complained so loudly of an alleged indifference to the safety of the new settlements. He insists that a majority of the committee lived north of the Potomac, and that their object was to stint the growth of the West. He did not tell us who composed it. [Mr. Benton explained by reading the names of a committee consisting of one from each State, A. D., 1785. Mr. Sprague proceeded.] The committee, which the gentleman had just named, was not that which originally reported the ordinance, but one to whom it was subsequently referred, and who do not appear to have made any amendments or alterations. It was, I believe, first reported in May, 1784, by a committee consisting of Mr. *Jefferson*, of Virginia, *Williamson*, of North Carolina, *Reed*, of South Carolina, *Howell*, of Rhode Island, and *Gerry*, of Massachusetts; and its paternity is thus transferred to the south side of the Potomac. It was not finally acted upon during that session; and, at the commencement of the next session, in November, 1785, all the unfinished business of the preceding was taken up, and this appears to have been subsequently referred to the large committee

which the gentleman has mentioned. But the justice and charity with which sinister motives are attributed to the North, is further illustrated by the fact, that upon the motion of Mr. McHenry to strike out this obnoxious clause, every member, with the single exception of Mr. Howell, of Rhode Island, answered in the affirmative; and yet it is insisted that the North, who had the whole perfectly in their power, were wickedly intent upon it as a means to cramp the growth of the West, and were defeated only by those of a more magnanimous region.

By the same ordinance, one-third part of all the mines of gold, silver, copper, and lead, were in all sales to be reserved to the Government. Upon a motion to strike out this reservation, and thus leave the whole to the purchasers, Massachusetts was divided, Rhode Island divided, and all the other States, and all the other delegates, excepting Mr. Monroe, answered in the negative. This instance of comparative liberality, seems to have wholly escaped the gentleman's observation.

Strange as it may seem, it has, in this Debate, been made matter of loud and bitter complaint, that the United States have sold the Public Lands for money—have coined the soil into gold and silver, as it was expressed. The right and the obligation of the Government to do this, have been so unanswerably established by the gentleman from Massachusetts, (Mr. Webster,) that I shall not discuss it. It would be useless, indeed, for me to follow where is seen the giant's track. I shall endeavor, throughout, to avoid the ground which he has occupied. I will only now add, that, however illiberal some persons may now consider the selling, instead of giving away this common property of the nation, it is not a mere Yankee notion, nor even confined to the wrong side of Mason and Dixon's line; but has, from the first, been insisted upon by the statesmen of the more congenial South. In February, 1786, a committee of Congress, consisting of Messrs. Pinckney, of South Carolina, McKean, of South Carolina, Monroe, of Virginia, King, of Massachusetts, and Pettit, of Pennsylvania, held the following language: "We contemplate with great satisfaction, the prospect of extinguishing a part of the domestic debt, by the sales of the western lands, but a considerable time must elapse," etc. And, in the Virginia Convention, in 1788, Mr. Harrison said, "*The back lands* and imposts will be sufficient for all the exigencies of Government." Mr. Grayson

spoke of the "domestic debt being diminished by the sale of western lands;" and Mr. Madison, speaking of the Mississippi, said, "A material consideration was, that the cession of that river would diminish the value of the western country, which was a *common fund for the United States*, and would, consequently, tend to impoverish *their public treasury*. *These, sir, were rational grounds.*" And in 1786, the Virginia delegation in Congress, with reference to the same subject, say,—“The States who have ceded it, and the Confederacy at large, look up to the *western lands as a substantial fund* for the discharge of the public debt.”

*The navigation of the Mississippi* occupied a large space in the gentleman's contrast of sectional liberality and illiberality. It is indeed a subject of importance, and vastly more worthy of attention than most of those upon which he has expatiated.

The specification of charge is, that in the year 1786, Mr. Jay, then Secretary of Foreign Affairs, proposed the making of a treaty with Gardoqui, the Spanish Minister, by which the navigation of that river should be relinquished to Spain for twenty-five or thirty years, in consideration of certain commercial stipulations for mutual interchange of commodities, by which all the productions of this country, with the exception of tobacco, were to be received into the Spanish dominions. This proposition was supported by the States of the North; and the gentleman charitably supposes, from a desire to deprive their fellow citizens of the West, of that great highway, so essential to their prosperity.

It is to be recollected that Spain, being then in possession of Louisiana and the Floridas, most positively and peremptorily denied that we had any right to participate in the use of that river. Prostrated as our strength and finances then were, the country was not in a condition to enforce our claim by arms. Thus situated, it was apparent that we could have no immediate enjoyment of the waters of the Mississippi, and it was believed that the best mode of securing the future permanent possession of them was, to lease it for a while to the Spanish government for a valuable consideration; and that, by assenting to such an arrangement, and holding it by our permission, Spain would unequivocally acknowledge our right, which would revert to us, accompanied by the possession, at the expiration of the stipulated term. And it was thought, moreover, that it would be dishonorable to the country, to suffer a foreign nation to withhold it from us



in a hostile attitude. It was also apprehended, that Great Britain would unite with Spain in resisting our claim, and excluding us forever from the enjoyment of our right.

These facts rest upon no doubtful authority ; they are supported by the disinterested testimony of high-minded and honorable men, actors in the scenes which they describe, and who, in 1788, were willing to do that justice to their associates, which is now attempted to be withdrawn.

General Lee, in the Virginia Convention, made the following statement :

“I feel myself called on, by the honorable gentleman, to come forward and tell the truth about the transaction respecting the Mississippi.” “There are men of integrity and truth here, who were also then in Congress. I call on them to put me right, with respect to those transactions. As far as I could gather from what was then passing, I believe there was not a gentleman in that Congress who had an idea of surrendering the navigation of that river. They thought of the best mode of securing it. Some thought one way, and some another way. I was one of those men who thought the mode which has been alluded to, the best to secure it. I shall never deny that it was my opinion. I was one peculiarly interested. I had a fortune in that country, purchased, not by paper money, but by gold, to the amount of eight thousand pounds. But private interest could not have influenced me. The public welfare was my criterion. In my opinion I united private interest to public interest—not of the whole people of Virginia, but of the United States. I thought I was promoting the real interests of the people.”

Mr. Madison said :

“There were seven States who thought it right to give up the navigation of the Mississippi for twenty-five years, for several reasons, which have been mentioned. As far as I can recollect, it was nearly as my honorable friend said ; but they had no idea of absolutely alienating it. I think one material consideration which governed them, was, that there were grounds of serious negotiation between Great Britain and Spain, which might bring on a coalition between those nations, which might enable them to bind us on different sides, permanently withhold that navigation from us, and injure us in other respects materially. The temporary cession, it was supposed, would fix the permanent right in our favor, and prevent that dangerous coalition.”

For these transactions, as affecting the interests of the region beyond the Alleghanies, the gentleman has cast unmeasured

opprobrium upon the North, and bestowed a corresponding eulogium upon the South, particularly Virginia. With what justice or candor may be seen, not only from what has just been stated, but from the facts which I shall hereafter adduce, and to which he has made no allusion.

That a majority of the delegates from Virginia were opposed to the contemplated treaty, is unquestionably true; but, is there not reason to believe that this was occasioned, in some degree at least, by the circumstance that her great staple, tobacco, was not provided for; especially when we find that one of her most eminent citizens, Mr. Monroe, disapproved of it, merely for its commercial regulations.

But the delegation from that State, in the same year, 1786, themselves proposed to enter into *permanent* stipulations with Spain, by which we should *relinquish, forever, all right of transporting any articles up the Mississippi, from its mouth; and New Orleans* should be made an entrepôt, at which our produce, carried down the river, *should be landed, and pay duties to the Spanish Crown; and a Consul of the United States there should be, responsible for every violation of these engagements!* Now, sir, compare these renunciations and sacrifices, to *endure through all time*, with the mere temporary relinquishment, for twenty-five or thirty years, and let the candid and intelligent declare which would have been most wise, and have best secured the true and permanent interests and safety of the Western country.

But the comparison ends not here. There was a time when the *Southern States, and Virginia with the rest, were disposed to make an absolute and perfect surrender of all rights to the waters of the Mississippi, but the Northern and Eastern States opposed it.* It was at the period of their greatest distress, and for the purpose of obtaining succor from Spain. For this, we have the high authority of Mr. Madison himself, who says:

"It was soon perceived, after the commencement of the war with Britain, that, among the various objects that would affect the happiness of the people of America, the navigation of the Mississippi was one.—Throughout the whole history of foreign negotiation, great stress was laid on its preservation. In the time of our greatest distresses, and particularly when the Southern States were the scenes of war, the Southern States cast their eyes around to be relieved from their misfortunes. It was supposed that assistance might be obtained for *the relinquishment of*



*that navigation.* It was thought that, for so substantial a consideration, Spain might be induced to afford decisive succor. *It was opposed by the Northern and Eastern States.* They were sensible that it might be *dangerous to surrender this important right, particularly to the inhabitants of the western country.* But so it was, that *the Southern States were for it, and the Eastern States opposed it."*

And Mr. Monroe, after speaking of the constant efforts of Virginia to preserve this navigation, says:

"There was a time, it is true, when even this State, in some measure, abandoned the object by authorizing this cession to the Court of Spain."

It is not my purpose to censure those who advocated that surrender. They felt themselves constrained by the necessities of the war. But the Northern States, more unyielding in their purpose, never despaired of the Republic; they sent their own sons to fight the battles of their distant brethren, and freely furnished, from within themselves, that succor which others were willing to purchase from foreign hands, at so great a price—and now they are, even here, rewarded with contumely and reproach.

Such is the effect of partial or distorted views of distant events; of resting upon insulated parts of remote transactions; of seizing and following the mere shreds of history, which lead to error and injustice, instead of light and truth.

By the terms of the treaty proposed by Mr. Jay, and which have been so much reprobated, Spain was to receive *all* the productions of the United States, with the exception of a single article; and yet the gentleman has, somehow, fallen into the error of asserting that the privilege was confined to *fish and oil*—which he several times repeated, adding, in a particular tone, "*id est, from New England.*" Sir, whatever the manner in which that gentleman may choose to allude to the fruits of their labor, it is not in his power to depreciate the merits or importance of our hardy fishermen—of that class of men, who, with John Manly, in 1775, first unfurled the American banner upon the ocean, and first caused the proud cross of St. George to bow to it in submission.

Yet even the fisheries—the right which Heaven gave, wherever the winds would waft or the waves would bear us, which were deemed so highly of, that Mr. Grayson denominated them

the cornfields of the East; even these were so far abandoned that the Congress refused to make their preservation a *sine qua non* of a treaty, but authorized peace to be concluded without any stipulations for their security. Thanks to the wisdom and firmness of the Commissioners who saved us from that calamity.

In January, 1803, President Jefferson nominated Robert R. Livingston and James Monroe co-ministers to the French Republic, for the purpose of obtaining from the First Consul an extension of our rights on the Mississippi. Upon the question of confirmation, by the Senate, of the nomination of Mr. Monroe, there were fifteen affirmatives and twelve negatives. And this opposition is made food for accusation against the States of the Northeast, as evincing hostility to the objects of the mission and the interests to be effected by it. Yet, Sir, without the affirmative votes which were given from those States, Mr. Monroe's nomination could not have been confirmed: for, if you subtract the three votes which their Senators gave in favor, and place them in opposition to the confirmation, there would have been but twelve for and fifteen against it. But, on the same page of the Journal, and in the sentence next preceding the statement of the question of Mr. Monroe's appointment, we find that the nomination of Mr. Livingston was confirmed without a division. *The mission and its purposes* were thus unanimously approved. The votes against Mr. Monroe must have arisen from the conviction that the expense of a second minister was unnecessary; and, when we consider the ability of Chancellor Livingston, and the subsequent history of the negotiation, that opinion may not appear to have been wholly unfounded. On the same page, too, we find that Mr. Monroe was immediately, without a division, confirmed as Minister to Spain, in conjunction with Mr. Pinckney, the object of that mission being also avowedly to secure and extend our rights to the Mississippi. It is strange, indeed, that these facts should have escaped the gentleman's scrutiny.

When the Louisiana treaty was presented to the Senate, in October, 1803, there were twenty-seven votes in favor of its ratification, and seven only against it; and this, too, is made a topic of crimination against those on our side of the Potomac. Yet, of those yeas, one half were by Senators north of that river, and four of them from New England; and, as it required two thirds to ratify, these four had it in their power to have rejected the

treaty. Is this evidence of Northern hostility to the West? Mr. Jefferson, in 1805, attributed that opposition to higher and purer motives—to a “candid apprehension that the enlargement of our territory would endanger the Union.” And we shall presently see that there may have been other reasons also in accordance with his own opinions.

The gentleman inveighed vehemently against the North, for its alleged opposition to the admission of Louisiana into the Union, the evidence of which was, that, when the bill for that purpose was before the Senate, an amendment was proposed by Mr. Dana, providing that it should not take effect until the consent of each State should have been obtained. Yet this proposition was defeated by Northern Senators: if they had voted in the affirmative, it would have prevailed by a vote of eighteen to ten. The whole amendment of Mr. Dana consisted of two alternative propositions, providing that the act should not take effect until the consent of each State should have been obtained, or *the Constitution have been so amended as to authorize Congress to pass the act*. A division of the question being required, a distinct vote was taken on the first proposition; which alone seems to have been selected for special animadversion. I marvel much that the gentleman's vision should have been confined to one-half of the amendment, especially when he was in search of motives, and they would have been clearly disclosed by a glance at the other half. Doubts were entertained of the constitutional power of Congress to admit Louisiana. And were not those doubts entitled to respect? Is it not known that Mr. Jefferson himself, to whose opinions the gentleman bows with such profound reverence, repeatedly declared, in his letters to Mr. Dunbar and others, that Congress had no such power; and, if I mistake not, Mr. Madison, in March, 1803, then Secretary of State, framed his instructions to Messrs. Livingston and Monroe upon the basis of this constitutional disability. He was so particular as to give a formula of some of the articles to be inserted in the proposed treaty, for the acquisition of Louisiana, one of which is prescribed in these words:

“To incorporate the inhabitants of the newly ceded territory with the citizens of the United States, on an equal footing, being a provision *which cannot now be made*, it is to be *expected*, from the character and policy of

the United States, that such incorporation will take place *without unnecessary delay*. In the mean time, they shall be secure in their persons and property, and in the free enjoyment of their religion."

Here, Sir, our negotiators were unequivocally warned not only to make no agreement for the admission of the inhabitants of the ceded territory into the Union, but to declare that such a stipulation *could not then be made*. By what was it *prohibited* except the limits of the Constitution? And what was the *necessary delay*, but to obtain the requisite authority by amendment? On the twelfth of August, 1803, after the signing of the treaty, and before its ratification, Mr. Jefferson holds the following strong and explicit language, in a letter to Mr. Breckenridge:

"This treaty must, of course, be laid before both Houses, because both have important functions to exercise respecting it. They, I presume, will see their duty to their country in ratifying and paying for it, so as to secure a good which would otherwise probably be never again in their power. But I suppose they must then appeal to *the nation for an additional article to the Constitution approving and confirming an act which the nation had not previously authorized*. *The Constitution has made no provision for our holding foreign territory, still less for incorporating foreign nations into our Union*. *The Executive, in seizing the fugitive occurrence which so much advances the good of the country, have done an act against the Constitution.*"

It is not my intention to enter into the argument or even to express an opinion upon the subject, but merely to show that it is not strange that seven Senators, or even a Committee of the Legislature of Massachusetts, should have doubted the existence of a constitutional power, which President Jefferson so peremptorily denied.

The Missouri question has been invoked upon this occasion. It is not a correct representation to say that the North were opposed to the admission of that State. They proffered her their cordial embrace. But they wished to exclude involuntary servitude from her limits; and, believing it, as they did, most sincerely and conscientiously to be a great moral and political evil, they were actuated by no feelings of unkindness, but the purest motives of justice and benevolence, in endeavoring to secure what to them seemed a great blessing to her citizens. That it was a disinterested effort on the part of the Northern States, is attested by



the Senator from South Carolina, who declares it to be for their interest that slavery should exist at the South.

As to the admission of Mississippi, the preparatory act authorizing the formation of her constitution passed without a division through the various stages in the Senate, until it came to the question of engrossment, to which there were eleven negatives. Those gentlemen might have thought the application premature. But I shall not stop to inquire into their motives, because I perceive among them the name of the venerable Macon, of North Carolina, who so recently occupied a seat here, and to whose successor, now near me, it belongs, to vindicate him from any aspersion upon his intention; and also the name of an honorable gentleman from South Carolina, (Mr. Smith,) now in his seat; for whose conduct it would be presumptuous in me to assign reasons, he being so eminently able to answer for himself.

The resolution for the final admission of that State was reported by a committee, on the third of December, 1817, being the third day of the session, was forthwith, by *unanimous consent*, read a first, second and third time, and actually passed on the same day, although any one member might have required its postponement. This shows how far there was a disposition to retard her progress into full communion with the American family.

I do not intend to exhaust the patience of the Senate, by following the gentleman through all the little, trifling incidents to which he has resorted to sustain his general position. Their importance and pertinency may be illustrated by his thrice-told story of an illumination at the surrender of Detroit, which flashed upon the world, for the first time, in the gentleman's speech. I have not been able to find any one who ever heard of it before. [Here Mr. Benton spoke to Mr. Sprague in an under tone.] He now tells me that it was in a small village in New Hampshire. I doubt the fact; but, even if some individual there had the folly to put an extra candle in his window, is it to be gravely attributed to a general animosity of the people towards their fellow-citizens, who were thousands of miles distant?

Another matter of almost equal gravity, was that General Hull, a few years ago, was actually invited to dine with some of his friends; and the convivialities of the festive board are, by the gentleman's imagination, converted into the acrid humors of inveterate hostility. This occurrence took place long since the termi-



nation of the last war. General Hull had just then presented to the public some new explanatory statements in an appeal well adapted to excite commiseration. Some persons who had known that veteran officer of the revolution, in other and better days, listening only to his own story, were convinced that he had been wronged. Their sympathy was excited, and they extended the hand of charity and friendship to soothe the feelings of his estimable family, as well as to alleviate his own sufferings, and smooth his path to the grave. And this act of personal friendship and benevolence is adduced as proof that not only those individuals, but the inhabitants of New England generally, are actuated by unhallowed passions of enmity toward others.

After Aaron Burr's conspiracy, and subsequent to his arrest as a criminal, he was invited to a dinner at Richmond, and sat down at the same table with the Chief Justice, before whom he was soon to be arraigned upon a charge of high treason. Did any one ever imagine that this was to be charged as a State offence, for which the people of Virginia were responsible? Nay, may not circumstances have existed which would exempt even the individuals from imputation? Sure I am, that not the slightest shade rests upon the fame of that wonderful man, to whose intellect the most powerful minds, and to whose goodness the purest hearts, do willing homage.

It has been broadly and strongly asserted, that "*the North have from the beginning done all in their power to cripple and strangle the West;*" and all historical facts, no matter how various or opposite their character, which pass through the alembic of the gentleman's speech, are made to yield the bitter spirit of Northern hostility.

If the act be in any degree doubtful in its appearance, it is of course viewed in its most offensive aspect. And if it be one of unmixed wisdom and beneficence, still its brightness is to be overshadowed by the ascription of impure and sombre motives. When the stream fertilizes and gladdens every thing in its course, still it may be insisted that the invisible fountain is corrupted and poisonous. At one time to decline a reduction of the price of the public lands, or even to require any price whatever, is crying and unheard of injustice—the poverty of the people is portrayed to us in glowing colors—and we are told that we are grinding them into the dust by our exactions. But when we do reduce the

price, or even relinquish existing debts, we are answered by the gentleman that no thanks are due to us ; so far from a favor, it is an offence, because it carries with it an implication of poverty and inability to pay, which should be repelled as an insult. Even the system of internal improvements has, in his view, ceased to be beneficial to the West—nay, positively injurious. All its fruits have been blasted by the friendly salutations of the northern breeze. He tells us that, if a road or canal be of any utility to a State, its benefits are to be measured only by the distance which it passes within her limits ; and thus the \$1,721,845, expended upon the Cumberland road, this side of Ohio, although projected as a Western measure, urged as a Western measure, and adopted and sustained as a Western measure, is, in fact, only for the benefit of the East. But, unfortunately for his argument, that East lies wholly on the South side of Mason and Dixon's line. By this criterion, no matter what great avenues and markets are open to our citizens, they are of no value to them, if beyond the limits of their own particular State. By this means, too, he charges all the works for public defence, and improvement of harbors, to the particular section in which they are located. He might have extended the principle, and considered a fortification to be for those merely who inhabit the little island upon which it is placed ;—or a lighthouse, for the sole accommodation of its keeper, the only tenant of the rock where it stands.

Sir, every man who produces or consumes any thing that is transported along our coast, or imported from, or exported to, any foreign country, is interested in these facilities to our commerce and navigation. If we owned not a ship in the United States, but depended solely upon foreigners for the vehicles of our commerce, still we must afford these accommodations, or pay more than their expense in the enhanced price of transportation, and rate of freight and insurance. Suppose we had adopted the gentleman's new criterion of the benefit of avenues of intercommunication, when we were securing the navigation of the Mississippi, that great highway of nature, and had said that the productions of each State may float upon its majestic current, to its own borders, but no further, and that even this privilege is to be extended to those only whose territory is actually washed by its waters ? Would this have satisfied the demands of the inhabitants, and secured to them the benefits which they now enjoy ?

The gentleman undertook a comparison of the appropriations for the improvement of certain sections of country, but *entirely overlooked* the immense donations of *Public Lands* to his own favorite region, which, *at the minimum price*, have amounted to no less than *nine million seven hundred and fifty-nine thousand five hundred and four dollars*, as appears by a statement from the Secretary of the Treasury—an amount far greater than the aggregate of all the sums embraced by his enumeration.

“The North,” says the gentleman, have “from the beginning, done all in their power to cripple and strangle the West.” Sir, before such an assertion was hazarded, all our history should have been dispassionately examined. It should have been recollected that, *of the old thirteen States*, *NINE were North of the Potomac*—that, in their hands, was the whole western country, to be moulded at pleasure—that they could have sealed up the magnificent Mississippi, and devoted the immense regions upon its borders to beasts and savages; or, if populated, they could forever have refused to receive them into the American family, or extend to them the rights and privileges of American citizens. Even the five New England States, constituting, as they did, more than one third of the whole number, might forever have excluded Louisiana and Florida, and have rejected every treaty for enlarging or confirming the privileges of the West. The power of the North was ample, complete, and irresistible, over the whole region beyond the Alleghanies; and, instead of being employed to wither and destroy, it has been assiduously exerted to cherish, sustain, and strengthen. Its inhabitants were regarded as children; bone of our bone—flesh of our flesh: their infant steps were sustained, and their path defended by the strong arm of the nation. We rejoice in their prosperity; the blessed fruit of our own benignant care. We receive them cordially to the full communion of all the inestimable blessings of free Government and Republican institutions, which had been purchased by the blood of our fathers. We parted to them our inheritance—we gave them of our strength—we resigned to them our power. From being more than two thirds of the whole number, we have voluntarily, by our own generous acts, made ourselves a minority of the States. And now we are told—here, in the Senate Chamber of the United States—that “the North have, from the beginning, done all in their power to cripple and strangle the West”!!!

Sir, I deeply deplore the cause, be it what it may, which can, at any time, or in any place give birth to declarations of such a character, tending to alienate the affections, and poison the mutual confidence, of different portions of our country.

Heaven itself has made them for union and happiness; and man and woman might as well quarrel with each other for the difference of their formation, as the great geographical divisions, of our Republic, for the features and adaptations which their Creator has given them.

Mr. Sprague said he would now turn his attention to some of the remarks of the Senator from South Carolina, (Mr. Hayne.) That gentleman, after expressing his regret that the controversy should become *sectional*, and lamenting the supposed necessity of assuming an unfriendly attitude, proceeded to present the Southern States and New England in hostile array against each other. He (Mr. Sprague) believed, that the responsibility of giving the debate that character must rest principally upon the gentleman himself, for there had been nothing in any previous speech which called for the attack which he had made upon the Northeastern States. I, (said Mr. Sprague,) will not follow his example; but, as far as possible, consistently with my duty, avoid every unpleasant allusion. From my earliest recollections, I have been deeply impressed with the sentiments inculcated by the Farewell Address of the Father of his Country, in which we are taught "to frown indignantly upon the first dawning of every attempt to alienate one portion of our country from the rest," and to lament that geographical discriminations of Northern and Southern, Atlantic and Western, should ever occasion the belief that there could be any distinction of views or interest.

But if these distinctions are insisted on by the citizens of one portion of our country—if the line of the Potomac is to be constantly drawn by those who live South of it, must they not expect that those who live North will sometimes remind them that there are two sides to that line? Or, if they point to a still narrower circle, and, making the six Northeastern States their line of demarcation, constantly allude to them in ungracious tones, must not New England of necessity assume a corresponding attitude, and poise herself upon her own energies?

Sir, we do firmly believe that we have exercised towards our distant brethren that "*charity*" which "suffereth long and is



kind ;" which "envieth not ;" which "vaunteth not itself ;" "doth not behave itself unseemly ;" "is not easily provoked ;" "thinketh no evil ;" "rejoiceth not in iniquity, but rejoiceth in the truth."

The gentleman's attack upon New England has rested almost exclusively upon the transactions of the late war. If his only object had been to condemn certain measures of the leaders of a party there in opposition to the war, I should not deem it necessary to make a single remark in reply. I resisted them to the utmost of my ability at the time of their greatest strength, and my opinions are still unchanged. But I can assent to no indiscriminate censure. If it was intended to fix any stigma upon the general character of the people of New England, I, although the humblest of their representatives here, feel bound to repel it. We have the explicit declaration of Mr. Monroe himself, then Secretary of War, and since deliberately made, that the confidence of the Government in the *People of Massachusetts*, was never shaken for a moment.

[Mr. Hayne explained, by saying that he never intended to cast any reproach upon the people of New England. That his remarks were confined to a particular party, which he had designated and described.]

Mr. Sprague resumed. Although such were the ideas conveyed by one portion of the gentleman's speech ; yet, taken in connexion with his declaration of war, at its commencement, a different result would seem to follow. He at first regretted that the contest should be *sectional*, and then arrayed the South against New England as opposing *sections of country* ; and, having thus proclaimed the war by geographical lines, he, of course, assumed a hostile attitude toward the people of that territory which he assailed. Why should he regret the peculiar *character* of the contest *as sectional*, if it was merely one of old political parties ? I am quite willing, however, to receive the explanation which the gentleman has just given, and shall omit some of the remarks which I had contemplated. If his only object, in entering the territory of New England, was to thrust at the dead, or wave his sword in triumph over their graves, I do not envy him either the glory or the magnanimity of the achievement. But there are some topics to which I shall advert, because they have been treated in a manner calculated to produce an injurious effect, whatever may have been the purpose of their introduction.



The *Hartford Convention* has filled no small space in this discussion ; it is wielded as a powerful engine against the Northeastern States. I remember it well, and have never spoken of it but in terms of decided condemnation. It had but few friends while living, and still fewer mourners to follow it to the grave ; and if its skeleton is now dug up, and held on high to the view of the whole nation, it will cast its shade upon a small part only of the fair surface of New England.

The sermons of Osgood and Parish have been produced here, and inflamed passages read, avowedly as evidence of public sentiment, and the gentleman called the writers " pious and good men." So do not I. Sir, they were infuriated fanatics—political madmen—condemned by the sober-minded of their own party ; and I would as soon produce the outpourings of Bedlam as proof of public opinion as effusions such as theirs.

The honorable Senator told us, with great emphasis, that the enemy was permitted to establish himself, and to open a custom house upon the soil of Massachusetts ; and so much reliance did he place upon this, as a cause of reproach, that it was reiterated three times in the course of his speech. It is most unjust. The people of that State, without distinction of party, were at all times resolved to defend their territory, and prompt in resisting the approach of the enemy. The gentleman's allusion could not be misunderstood ; it was to the capture and detention of Castine, a small village situated on a little peninsula, on the eastern side of the Penobscot river, in the remote parts of Maine, where the adjacent country contains but a sparse population. It is connected with the main land only by a narrow neck, and is surrounded, on its various sides, by water deep enough to float ships of the largest class, which might, within point-blank shot, command every part of the village. I verily believe that a large naval force might bring more guns to bear upon that place than there were men in it at the time of its capture. So situated, and destitute of the means of efficient defence, an overwhelming British fleet captured and took possession of it. I would ask the gentleman what resistance he himself would have made. Could he have withstood the batteries of that fleet with nothing but his sword or his musket ? The idea of successful resistance would have been mere fatuity. But it is said the enemy retained the place, and opened a custom house. It was not taken until about the first day of

September, 1814, and the treaty of peace was signed in December of the same year, of which information reached us in February following. Could it have been retaken? The British had there a large military and naval force. The neck which connects the peninsula with the main land is so low and narrow that a canal was dug across it, and Castine was thereby converted into an island. All access to it was completely commanded by the guns of the enemy's fleet, and we had not a single ship to aid us; beside which, the whole seaboard of Maine, for more than two hundred miles, and its numerous rivers, bays and inlets, containing millions of shipping, were constantly harassed by the enemy ranging along the coast, and requiring the presence of the militia at every point to repel his threatened depredations. And, even if the militia could have been spared for the enterprise, and it had been possible to recapture the place, the British might easily have taken possession of any of the numerous adjacent islands in the Penobscot Bay, and carried on all his operations with great facility.

Are we then to be repeatedly reproached with the capture of Castine, and that too here—in this Capitol—within these walls, which have but just risen from the conflagration of the enemy, and are hardly yet purified from the pollution of hostile feet; and having, at this moment, at your public navy yard here, a monument bearing an inscription perpetuating the presence and the barbarism of the British! And these acts done, not under the guns of their ships, but by a few thousand men marching fifty miles by land, through a population of two hundred thousand persons; and you having here, in aid of the militia, a thousand regular troops, a public armory, and the brave little band of sailors commanded by the gallant Barney!

The gentleman from South Carolina himself told us—I would not otherwise have alluded to the fact—that his own State was completely overrun during the war of the revolution. It was so indeed. The British considered it entirely subdued, and, for a time, held over it resistless sway. I mention it not as a reproach; it was inevitable. But that gentleman should have been the last to suggest the idea that the presence of an enemy upon the soil is a necessary impeachment of the patriotism or gallantry of the people.

Maine, from its local position, was more exposed than any other State in the Union; having Lower Canada on the north,

New Brunswick on the east, and from two to three hundred miles of sea-coast, which the enemy commanded on the south. She owned one ninth part of all the tonnage of the United States, and, at the commencement of the war, there were not two hundred regular troops in the State. Her citizens did not wait to be solicited, but voluntarily tendered their services to their country, and three regiments were immediately organized, by which her territory was defended at all points, until, in 1813, all the troops raised for the defence of Maine, even those in the garrisons, were, by order of the Secretary of War, marched to the Niagara frontier. The British having a strong force in each of the adjacent provinces to the north and the east, and a powerful armament on the sea, were, by that withdrawal of the troops, tempted to annex the lower and unsettled parts of the country to their colony of New Brunswick ; and, with this view, took possession of Castine, in September, 1814. It was immediately determined to compel the adversary to withdraw, by carrying the war into his own territory. An army of ten thousand men, commanded by a distinguished citizen of Maine, was to invade New Brunswick, at the opening of the Spring ; and such progress was actually made, and with such zeal and alacrity did the people offer their services, that it was well ascertained that the whole number of troops would be raised within the limits of Maine and New Hampshire. The peace alone prevented the plan from being carried into execution ; and I hazard nothing in saying that, had the invasion been made, with such troops and such a commander, it would have been no second edition of the campaigns of Hampton and Wilkinson.

Notwithstanding all that has been said of the late war as derogating from the character of New England, I boldly ask, from what part of the country was it sustained with more efficient aid ? The gentleman tells us that money was withheld by a combination of all the banking interest. One bank, sir, in the town of Boston alone, advanced the Government two millions of dollars ; and a single individual there a million more. The large amount loaned in the town of Salem, my friend from Massachusetts now before me, (Mr. Silsbee,) whose ample fortune was entrusted to his country, can well attest. Sir, without the hard money—not the depreciated paper of broken banks—but the gold and silver which the citizens of New England caused to be paid into the Treasury from loans and the customs, your tottering

credit must have fallen completely prostrate. And when clouds of despair lowered around you, and thick darkness enveloped your whole horizon, it was the gleams of glory from the ocean that dispelled the gloom, and illumined your path. That sun of glory arose in the East, and was lighted up by the Mariners of New England. You manned not a ship—you fired not a gun upon the lakes or upon the ocean, without the aid of the sons of New England; and, in every battle upon the water, they poured out their blood in your defence. Upon land, too, their achievements were unequalled. Those who, having voluntarily tendered their services, were not permitted to defend their own homes, but marched to the frontiers of New York, constituted the regiment which well earned their expressive appellation of the bloody ninth, which stood alone against twice their force of British veterans, whilst half their own numbers had fallen upon the field! They composed, too, the twenty-first regiment, which, at the battle of Niagara, by a desperate effort, in face of a blazing battery of deadly artillery, took the eminence which it commanded, and, meeting the foe man to man, repulsed and defeated him in successive onsets, and destroyed forever the boasted invincibility of the British bayonet.

I would not have inquired what service South Carolina rendered during the war, had not the Senator from Missouri, in contrast with the East, made it a theme of praise and gratitude. When he introduced that topic, I was, indeed, somewhat curious to hear his enumeration of her exploits—and what were they? Why, sir, that she sent her able and eloquent representatives to raise their voices in Congress. I trust that I fully appreciate their services, and that no one is more cordially disposed to award them their full measure of honor or gratitude. But I believe that the enemy would rather that we should have sent thousands of our most eloquent orators, to make their most eloquent speeches upon the floor of Congress, than to have met the single crew of that frigate which compelled the haughty and boastful *Dacres* to strike the flag of the *Guerriere*, and bow in submission to *Isaac Hull*.

When the gentleman from South Carolina spoke in terms of commendation of the merits and exertions of the republicans of the East, I was relieved and gratified. I supposed that he was willing to embrace, within that description, all who cherished



true republican principles. But what was my astonishment, when he afterwards narrowed down his description, and confined his approbation to the few who united with him in the *last Presidential election!* He told us that the "democracy of New England" had *always* acted with the *South*—not only in the war of 1812, but "in the civil contest of 1828," that it was then, as now, the ally of the South. This is, indeed, restricting our republicanism to very narrow limits—by the test of the electoral votes, to one fiftieth, and, by any other just criterion, to a small part only of the people. And thus, veterans of the republican party, those who sustained it in the darkest times, and have been ever true to their principles and to their country, who were its fearless and unwavering champions, during embargoes, non-intercourse, and war, are now denied the name of republican, because they have dared to think for themselves, as to the qualification of a candidate for the Presidency, and bowed not down to the idol which others had set up. While, on the other hand, some of their most violent opponents, even aiders and abettors of the Hartford Convention, those ultra federalists, who opposed Mr. Adams, because of their unforgiving spirit, could never forget that he had once left their party, are received into full communion, and cordially embraced by those who claim to be, by their own appointment, exclusive guardians of pure, primitive, unspotted democracy.

The gentleman seems to have no other criterion of republicanism, than adhesion to the South. Not the assertion of principles, but devotion to Southern men. He told us, in so many words, that "the South had made New England," and it seems that, in his view, those only are of the true faith, who will bow down and worship this new creator.

A very considerable portion of the speech of the Senator from Missouri was devoted to a comparison of the liberality of the North and the South, and he yesterday reminded us that, in the last election of President, there was but one vote in all New England for the Southern and Western candidate.

Since he has chosen himself to introduce this test of sectional disinterestedness and magnanimity, let us bestow upon it a moment's attention. The whole number of votes which have been given for President in the electoral colleges, since the organization of this government, has been two thousand and nineteen,



of which *nine* only have been thrown, in all the States south of the Potomac, for candidates residing north of that river, viz: one in Virginia, and one in North Carolina, in 1796; four in North Carolina, in 1800; and one in Illinois, and two in Louisiana, in 1824. While, during the same period, the States north of that river have given no less than seven hundred and nineteen votes for Presidential candidates living south of it. They have supported Southern men three times unanimously; at another time, with but a single dissenting vote; in another instance, with but six; and again, by a large majority.

Upon these facts, I make no comment.

The subject of slavery, incidentally touched by the gentleman from Massachusetts, (Mr. Webster,) has been taken up and dwelt upon with great zeal, by those who followed him. It is a topic of such delicacy and difficulty, that I have always abstained from referring to it in debate; and others from the North have, very generally, practised the same forbearance.

I have deeply lamented that the sensitiveness of the slaveholding States should have been so often operated upon, out of this House, to produce unkind feelings, and unjust accusations, against their brethren. We have been told that it can always be made a bond of union in political warfare, and I much fear that the cry of hostile designs to their rights and property has been too often rung as an alarm to rally the whole slaveholding population in one array against those who have never indulged an unfriendly thought.

The people in the North do undoubtedly condemn slavery in the abstract, and deeply deplore its existence in our country; but they have not the remotest intention of disturbing this domestic relation, by thrusting themselves between the master and his bondmen. They know that, as the institution actually exists, they have no right, by the Constitution, to attempt to overturn it; that to do so might dissolve the Union; and that their interference, so far from relieving the slave from bondage, would probably aggravate his condition and rivet his chains more firmly.

The gentleman has spoken of the *prejudices* of the East. Sir, what he has thus denominated, are disinterested, pure, benevolent, and elevated *principles*. They wish, indeed, that their friends of the South could be relieved from what they deem a great moral and political evil; but they are aware that the remedy

is to be found and applied by those only among whom the evil exists, and have no disposition to touch it with inexperienced hands.

Had the gentleman been content to express, in general terms, his approbation of involuntary servitude, and his exultation at its existence, I should have made no reply. He might even have insisted, as he did, that it added to the physical strength of a country, although I cannot well understand how withdrawing one-half of the whole population from the contest can strengthen the common arm in the hour of battle, and although such was not the opinion even of Southern statesmen after the experience of the revolution. Mr. Madison, in 1788, said, "What parts of the United States are most likely to need protection? The weak parts, which are the Southern States." And again, "It was said, and I believe with truth, that every part of America does not stand in equal need of protection. It was observed that the Northern States are most competent to their own security."

But the gentleman has chosen to make this very topic the ground of a comparison, degrading to the republicanism of the East. He asserted that, from the possession of slaves, there had always been a greater love of liberty in the South than in the North; and rested his assertion upon the authority of Mr. Burke. What kind of love of liberty is it which, Burke says, is generated and fostered by the institution of slavery? He says that, to slaveholders, liberty is not only an enjoyment, but "a rank and privilege," and subsequently speaks of their "haughtiness of domination."

Who does not perceive that this love of liberty is but the love of rank, of power, of absolute and uncontrolled dominion, and that, too, over their fellow-men, extorting from them the most abject submission? It is the same love of liberty which is possessed by the privileged classes—the aristocracy, in other countries—an attachment to their own immunities, to arbitrary control and domination over others, and impatient of all restraint upon themselves.

Let it be remembered that this delineation is not mine, but was furnished by the Senator from South Carolina. If I had imputed such sentiments to any portion of our own country, I should have felt myself obnoxious to the charge of unkindness. I trust, Sir, that he has done himself and his friends injustice; and that such

is not the democracy of the South. It was not that of Mr. Jefferson, as is shown not only by the proposition against involuntary servitude, which he made to the Old Congress, but by the general tenor of all his political writing.

It is not the democracy of New England. We have heard, in this debate, of the oligarchy and aristocracy of New England ; and they are so often spoken of elsewhere as terms of general application, that I fear very erroneous opinions are prevalent as to the character and institutions of that people.

I thank the Senator from South Carolina for reminding us of the oppression which drove our forefathers from their native land ; for I delight to recur to the patriarchal founders of Massachusetts—the Puritans—who, for the enjoyment of civil and religious liberty, left their country, friends, civilization, plenty and security, for exile in a wilderness, across a world of waters, exposed to every suffering and every danger ; those indomitable spirits who would yield to no usurped dominion, but resolved to live free or cease to live. When they landed upon the Rock of Plymouth, it was with the Bible in their hands, and its precepts in their hearts, and they laid deep the foundations of a Christian Commonwealth. From the sacred volume they imbibed the true spirit of all our institutions ; the native equality of the human race—formed of the same materials—fashioned by the same hand—animated by the same breath—and destined to the same grave. Do unto others as ye would that they should do unto you was, to them, the impressive command by which Heaven itself placed all mankind upon the common level of moral right and mutual obligation, and declared that “man was not made the property of man.”

They acted upon the principles which they professed, and constituted one society of equals and brethren. As their numbers increased and spread over a greater area, it became impracticable for all to unite in transacting the public business at one place, and they therefore formed territorial districts, of convenient extent, by some called townships, but there denominated towns, which continued to be multiplied as population advanced. These towns were then, and are still, throughout New England, pure democracies, in which the whole people, in their original sovereign character, assemble at one place, to order their own business in their own way, each freeman having an equal voice, and every man

being free. In these primary assemblies, they choose their own agents, prescribe their duties, call them to account, and censure or approve, as their conduct may seem to deserve. They raise money, direct its expenditure, and order and control all measures of general concernment.

Here, too, are supported our Free Schools, an institution unrivalled in the history of human education, by which children of all classes are brought together upon the basis of perfect equality, and receive instruction from the same source, without distinction or partiality. The funds for the support of these schools are annually raised by vote, in the primary assemblies of the towns, where the poor man, having perhaps a dozen children, but wholly destitute of property, has an equal voice in determining the amount, and its appropriation, with him who has hundreds of thousands, and is childless. The sums thus ordered are directly assessed upon property. The annual amount, in my own State, is not less than one hundred and fifty thousand dollars. A system more perfectly democratic in its immediate character and ultimate tendencies, was never devised by man. It is upon this broad foundation of universal instruction that all our political institutions rest. It sustains, too, our Colleges, our Academies, our Hospitals, Asylums, and all those benignant charities, whose streams extend to the uttermost regions of the earth.

I thank the gentleman, too, for his reference to the American revolution. He told us that the South had no ships nor commerce to cause them to resist Great Britain. Sir, that resistance was not for ships and commerce merely, but against the principle of taxation without representation, which extended equally to all the colonies. It was the claim of the Imperial Parliament to "bind us in all cases whatsoever;" and, if we had not resisted, they would have bound our infant giant limbs in fetters. And Massachusetts has the enviable distinction,—that glory of which nothing can deprive her to the end of time,—of having been the first to make this resistance, alone and unaided, in defiance of the whole power of the British Empire. Lord North himself declared, on the floor of Parliament, that Massachusetts alone was to blame; that, but for the evil example of her violent opposition, the obnoxious tea would have been everywhere else quietly received; and that she should be visited with exemplary vengeance. And Colonel Barre, who has been sometimes called the friend of Amer-



ica, declared that her conduct, as the prime mover of all the disturbances, had been so reprehensible, that the Boston Port Bill, which was intended to reduce thousands to starvation, was a measure of mercy ;—while another member thundered forth against Massachusetts the anathema which was not long since uttered in the other end of this Capital against New England, “ *Delenda est Carthago.*”

The true character of a people is best ascertained by their conduct at those times when—rising against oppression, and absolved from the restraints of law—they are a law unto themselves. With this view, look at the destruction of the tea by what has been called a “ Boston mob.” They assembled in the night, went on board the ships, hoisted the chests upon deck, and poured their contents into the sea, with the order and regularity of an ordinary business operation. No other article of property was touched, not an act of violence committed ; but, when the work was done, the multitude who had assembled to witness the scene, quietly and peaceably retired to their respective homes.

Since gentlemen are fond of introducing their reminiscences, they will indulge me in another exemplification of the conduct of an educated, moral, fearless, republican people. After what has been denominated the Boston Massacre, an event calculated to inflame the multitude to the highest degree of excitement, when, as the historian tells us, they seemed utterly regardless of personal danger, and immovable by the bayonets of the soldiery—did they resort to tumult and outrage, to conflagration and bloodshed ? No. They assembled in town meeting, chose a committee of citizens to require of the royal Governor the removal of the troops. When they came into his presence, he was surrounded by his high officers, civil and military, and spoke in such lordly language as became the viceroy of a king. “ They must go,” was the firm and laconic reply. Seeing this spirit, and lowering his tone, he attempted to compromise, by offering to send away one regiment. The Chairman, the venerable Samuel Adams, fixing upon him his piercing eye, and stretching forth his tremulous hand, exclaimed, “ All or none, sir.” The mock majesty of artificial creation shrunk before the native dignity of true republicanism. The mandate was obeyed. The troops were removed.

Such were the people who constituted the militia that fought the battles of Lexington, of Bunker’s Hill, and of Bennington.



"This night," said a Grecian commander to his soldiers, "we shall sup with Pluto,"—a speech which has been thought worthy to be handed down to us through many centuries. How immeasurably more elevated and touching was the simple address of the gallant Stark to the husbands and fathers, his neighbors and friends, whom he commanded at Bennington!—"There are the enemy: we conquer them, or this night Mary Stark is a widow."

I shall not attempt to enumerate the worthies or the achievements of New England. Time, indeed, would fail me to delineate her character, or speak of her services. They stand out in brilliant colors upon every page of your history. She may be followed through every section of our country by the blood and exploits of her sons—to your own native South Carolina, where Green and Sullivan fought, "and Scammel fell,"—to the West, where their bones rest on the battle-grounds of St. Clair's defeat, and of Harrison's victory. Every valley is vocal with the voice of her children. Her blood swells every vein of this great republic. Her fame is reflected from the whole bright surface of this wide-spread and mighty nation.

I glory in such a blessed parentage, and in the brotherhood of her hardy, educated, enlightened, virtuous, generous, brave, republican population. With deep-felt gratitude, I reverently thank God that, of all places upon his earth, he gave me my birth in the land, and among the descendants, of the Puritan Pilgrims of New England.



FOOT'S RESOLUTION—SECOND SPEECH.



## FOOT'S RESOLUTION—SECOND SPEECH,

IN THE SENATE, MAY 21, 1830.

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THE preceding Speech on Foot's Resolution, was made on the third of February, 1830. On the twenty-first of May, Mr. Benton most unexpectedly called up that Resolution, reopened the debate, and assailed certain parts of the foregoing speech. As soon as he sat down, Mr. Sprague replied as follows.





## FOOT'S RESOLUTION—SECOND SPEECH.

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MR. SPRAGUE said, that, after this subject had slumbered for two months upon the table, under a mass of other matter, nothing could have been more unexpected than this, its sudden revival. The gentleman from Missouri, (Mr. Benton,) at this late hour, in almost the expiring moments of the session, has undertaken to point out certain supposed mistakes of mine, in relation to the navigation of the Mississippi. I shall not, sir, protract this untimely discussion further than to re-affirm my former statements. The errors upon this subject are on the side of the gentleman, not mine. I said nothing that is not fully sustained by the highest authority, by the speeches of Mr. Madison, Mr. Monroe, Mr. Lee, and Mr. Grayson, in the Virginia Convention, and the Journals of the Continental Congress. I then had the books in my hand, and read from them to the Senate.

I stated, sir, that the delegation from Virginia, (not the South generally, but the delegates from that State,) in the year 1786, proposed to enter into permanent stipulations with Spain, by which we should relinquish, forever, all right of transporting any articles up the Mississippi from its mouth; and New Orleans should be made an entrepôt, at which our produce, carried down the river, should be landed, and pay duties to the Spanish crown; and a consul of the United States there should be responsible for every violation of these engagements! Now, sir, compare these renunciations and sacrifices, to endure through all time, with the mere temporary relinquishment, for twenty-five or thirty years, and let the candid and intelligent declare which would have been

most wise, and have best secured the true and permanent interests and safety of the Western country.

Notwithstanding the gentleman's assertion, that the reverse of this was the fact, I maintain that such a proposition was made by the delegates from Virginia, in 1786, and it will be found in the fourth volume of the Secret Journals of Congress, published in 1821, pp. 105 and 106.\*

Let it be remembered that my statement was, that such a proposition proceeded from the Virginia delegation; not, as the gentleman's remarks indicate, from the South generally.

But I proceed, in addition, to say: There was a time when the Southern States, and Virginia with the rest, were disposed to make an absolute and perfect surrender of all right to the waters of the Mississippi, but the Northern and Eastern States opposed it. It was at the period of their greatest distress, and for the purpose of obtaining succor from Spain. For this I produced the speeches of Mr. Madison and Mr. Monroe, and might have referred to other distinguished names; but their authority is too strong to be shaken, and too elevated to be reached by that gentleman.

\* The Virginia proposition was made August 29th, 1786, and is to be found extending from page 87 to page 108 of the fourth volume of the Secret Journals. In pages 105 and 106, is the following Resolution:

"*Resolved*, That the Charge des Affaires of the United States at the Court of Spain be instructed to assure his Catholic Majesty of the high regard the United States entertain for his friendship, and of their earnest desire to cultivate and preserve always the best understanding between His Majesty and the said States; that, as an evidence of this disposition, they are willing to settle their interfering claims respecting the Mississippi, and the boundaries upon the following principles: 1st. That New Orleans be made an entrepot, for the reception of the *bona fide* produce of the United States brought down the river Mississippi by the citizens of the said States; such produce to be landed at said port for exportation. That the said citizens be at liberty to return with their boats empty, or with passengers only, up the Mississippi, to the places from whence they came. 2nd. That such produce aforesaid shall pay there, or the merchants exporting it give bond for the payment, within six months from the date, of a duty not exceeding per cent. *ad valorem*, at the time of exportation, to the crown of Spain. That such produce aforesaid shall be exported thence, in Spanish, American, or French vessels: those in the bottoms of Spain, under the regulations of Spain; and those in the bottoms of America and France, under the regulations of the two countries, by treaty or otherwise. That imports of every kind and country to the said port, and up the said river, in American and French bottoms, be prohibited; and that all vessels engaged in transportation of said exports shall come to such ports in ballast only. That the United States shall be authorized to appoint a consul, to reside at New Orleans, who shall be responsible for any violation of these stipulations by the citizens of the United States."

Indeed, he has not even adverted to their unequivocal and decisive testimony.\*

The gentleman has chosen this moment to introduce, for the first time, into this debate, the subject of the removal of the Indians, upon which he has dilated in most extraordinary terms. Having presented my views in relation to it, at the proper time, I have no inclination now to obtrude upon the Senate any further remarks; nor is there any necessity for doing so. The whole cause of the alarm we have just heard, is the statement, by one newspaper editor, of what another newspaper editor had said; from which the gentleman's prolific imagination has conjured up

“Gorgons, Hydras, and Chimeras dire.”

[Here the debate on Mr. Foot's resolution was finally brought to a close.]

\* Extract from Mr. Madison's Speech in the Virginia Convention :

“It was soon perceived, after the commencement of the war with Britain, that, among the various objects that would affect the happiness of the people of America, the navigation of the Mississippi was one. Throughout the whole history of foreign negotiation, great stress was laid on its preservation. In the time of our greatest distresses, and particularly when the Southern States were the scene of war, the Southern States cast their eyes around to be relieved from their misfortune. It was supposed that assistance might be obtained for the relinquishment of that navigation. It was thought that, for so substantial a consideration, Spain might be induced to afford decisive succor. It was opposed by the Northern and Eastern States. They were sensible that it might be dangerous to surrender this important right, particularly to the inhabitants of the Western country. But so it was, that the Southern States were for it, and the Eastern States opposed it.”

And Mr. Monroe, after speaking of the constant efforts of Virginia to preserve this navigation, says :

“There was a time, it is true, when even this State, in some measure, abandoned the object, by authorizing this cession to the Court of Spain.”





REMOVAL OF THE INDIANS.



## REMOVAL OF THE INDIANS.

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THE question of the right of the Indian Tribes within the Territorial limits of the United States, and our duties to them, attracted much attention, and excited great interest during the first administration of General Jackson. The most prominent case was that of the Cherokees, within the limits of Georgia. With that Tribe, the United States had several Treaties in full force, guarantying to them, in the most solemn manner, the protection of the United States, against encroachments from any other State or people. Under this protection, the Cherokees had advanced in civilization, beyond, perhaps, any other Tribe. They had cultivated their lands, established a regular Government, erected valuable buildings, and engaged in the useful arts. During the administration of John Quincy Adams, the State of Georgia manifested a determination, not only to encroach upon the Cherokees, but absolutely to destroy their national existence, and to take from them, by force, all their lands, with all their buildings and improvements. The Cherokees appealed to the Government of the United States, for that protection which we had so solemnly and repeatedly promised to afford. Mr. Adams promptly interposed in their behalf, and arrested the uplifted arm of Georgia. When General Jackson came into power, a different policy was adopted, and a determination was taken, to permit Georgia to nullify the laws and treaties of the United States, by the exercise of absolute dominion over the Indians within her geographical limits. It was a part of this policy to compel the Indians to leave their homes and remove to a wilderness. To this end, a Bill was reported to the Senate, by the Committee on Indian Affairs, providing for an exchange of lands with the Indians residing in the United States, and their removal beyond the Mississippi. This title but faintly indicates the character of the measure. No option was to be left to the Indians, whether to exchange or not; the only alternative to be presented, was, "removal" or "destruction." The President having, early in his administration, entered into this system of measures, in defiance of both the Natural and Conventional Rights of the Indians, pursued it with unyielding energy.



## REMOVAL OF THE INDIANS.

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IN THE SENATE, APRIL 16th and 17th, 1830.

THE Bill providing for an Exchange of Lands with the Indians residing in the United States, and their Removal beyond the Mississippi, and a proposed Amendment thereto, being under consideration, Mr. Sprague spoke as follows:

MR. PRESIDENT: The gentleman who has just resumed his seat (Mr. Forsyth) has indulged in a wide range of remark in defence of his State against imputations which he supposed to have been elsewhere cast upon her. This course may have been very proper in him; I fully appreciate the motive which induced it. But I have no occasion to follow him. I have no wish to derogate in the least from the character of Georgia, but rather that it should be as elevated as her most devoted sons can desire. I shall speak of her so far only as may seem necessary to the free discussion of the subject before us.

This bill and amendment, and the discussion which they have produced, involve the question of the rights and duties of the United States with respect to the Indian tribes generally, but more especially the Cherokees. With that people, we have not less than fifteen treaties,—the first made in the year 1785, and the last in 1819.

By several of these treaties, we have unequivocally guarantied to them that they shall forever enjoy:

1st. Their separate existence, as a political community.



2d. Undisturbed possession and full enjoyment of their lands within certain boundaries, which are duly defined and fully described.

3d. The protection of the United States against all interference with, or encroachments upon, their rights by any people, State or nation.

For these promises, on our part, we received ample consideration :

By the restoration and establishing of peace.

By large cessions of territory.

By the promise, on their part, to treat with no other State or nation ; and other important stipulations.

These treaties were made with all the forms and solemnities which could give them force and efficacy ; by Commissioners duly appointed with full power ; ratified by the Senate ; confirmed by the President ; and announced to the world, by his proclamation, as the binding compact of the nation, and the supreme law of the land.

The Cherokees now come to us, and say that their rights are in danger of invasion from the States of Georgia and Alabama ; and they ask if we will extend to them the protection we have promised, and perform the engagements we have made. This is the question which they distinctly propound, and which we must unequivocally answer ; and we are now discussing what our response shall be.

There is a broad line of distinction between the claims of Georgia, and those of Alabama, and Mississippi, which seems heretofore to have been unobserved, but which I shall endeavor to keep in view.

Let us first inquire what our duties are with respect to Georgia ; for, if her pretensions are unfounded, those of Alabama and Mississippi fall of course.

It is not necessary to determine whether the Indians have just grounds for their apprehensions or not, because the question is whether, if the rights secured to them by our treaties should, at some future day, be invaded, we will perform our engagements.

But have they not some cause for their present alarm ? In December, 1827, a Committee of the Legislature of Georgia made a report, accompanied by sundry resolutions, which were accepted by both branches, and the resolutions also received the approval

of the Governor. In the report, we find the following language respecting the territory of the Cherokees: "The lands in question belong to Georgia; she must and she will have them." And in the Resolutions, the following:

"*Resolved*, That all the lands, appropriated and unappropriated, which lie within the conventional limits of Georgia, belong to her absolutely; that the title is in her; that the Indians are tenants at her will; that she may, at any time she pleases, determine that tenancy by taking possession of the premises, and Georgia has the right to extend her own authority and laws over the whole territory."

"*Resolved*, That Georgia entertains for the General Government so high a regard, and is so solicitous to do no act that can disturb or tend to disturb the public tranquillity, that she will not attempt to enforce her rights by violence, until all other means of redress fail."

"*Resolved*, That, to avoid a catastrophe which none would more sincerely deplore than ourselves, we make this solemn appeal to the United States," etc.

It is thus asserted as the right, and avowed as the determination, of Georgia, to exercise absolute power over the Cherokees, and to take their land at all hazards,—even by violence, if other means should fail.

The gentleman from that State (Mr. Forsyth) observed, in the commencement of his speech, that he felt himself bound in conscience to relieve his friend from New Jersey from all apprehensions of a violation of the faith of the nation, by demonstrating that the claims of Georgia were supported by treaties. And he proceeded to do so in language so strong, and tones so triumphant, as to make an evident impression upon members of the Senate. Let us deliberately examine his argument.

The first treaty referred to was that of Galphinton, in 1785, by which certain concessions were made to Georgia. But that was by the Creeks, and by them only, and had no relation to the Cherokees. [Mr. Forsyth explained. He remarked upon that treaty in answer to the gentleman from New Jersey, (Mr. Frelinghuysen,) and not as bearing upon the rights of the Cherokees. Mr. Sprague resumed.] He was glad to receive the gentleman's explanation; it precluded the necessity of any further remark upon that topic.

The treaty next cited was that of De Witt's Corner, A. D. 1777, between South Carolina, Georgia, and the Cherokees, by which the latter acknowledge that a portion of their country, extending

as far as the Unacaye Mountain, had been conquered, and they made a cession of the same, by defined boundaries, to South Carolina, and to her only. The conquered and ceded territory lies wholly within that State; and it is not now, and has not been for at least one generation, either claimed or occupied by the Indians. What right can that confer on Georgia to lands now owned and possessed by the Cherokees?

The next position was, that the right of this State was derived under the Ninth Article of the Treaty of Hopewell, made between the United States and the Cherokees, in November, 1785, by which they gave to the United States the right of managing all their affairs. To this Georgia was no party. But the gentleman contends that the United States transferred all their power and claims, under the treaty, to that State, by virtue of the compact of 1802; and that we now cannot interfere with her pretensions. The clause in the compact, which is relied upon, is this: "The United States cede whatever claim, right or title they may have to the jurisdiction or soil of any lands lying within the limits of Georgia."

Does this relinquishment of the right of the United States to the soil and jurisdiction of the lands purport to transfer a pre-existing treaty with the Indians? Was it so intended?

And, if it had been, is the power which the treaty confers to legislate for their benefit, in its nature transferable? The Article is in these words:

"For the benefit and comfort of the Indians, and for the prevention of injuries and oppression on the part of the citizens or Indians, the United States, in Congress assembled, shall have the sole and exclusive right of regulating the trade with the Indians, and managing all their affairs in such manner as they think proper." The power given is strictly personal and fiduciary, to be exercised according to our judgment upon future events, and for their benefit. Can even a guardian transfer his rights and duties at pleasure? By the Constitution—the fundamental compact—Georgia has given to the United States the right to legislate, in certain cases, over her citizens for their benefit, for example, to organize, arm, discipline and call forth her militia. Can the United States transfer this right to South Carolina, or any other Sovereign?

The express words of the article require this right to be exer-

cised by the United States, "in Congress assembled." Can we, without the consent of the other party, strike out these words, and insert—"the Legislature of Georgia"?

Again, in order to see that this power is properly exercised, the Thirteenth Article secures to the Cherokees, "the right to send a deputy of their choice, whenever they think fit, to Congress." Shall he come here to watch over the legislation at Milledgeville?

But if this power was, in its nature, transferable, it must be so subject to the restrictions and limitations in the treaty contained, among which are the following :

1st. That the Cherokees shall continue to exist as a distinct political community, under the protection of the United States.

2d. That they shall enjoy the undisturbed possession of their lands.

3d. That the power to manage "their affairs" shall be exercised for the benefit and comfort of the Indians, and for the prevention of injuries and oppressions.

Did this give to the United States, the right to drive them from all their lands? Or to destroy the Cherokee nation, to strike it out of existence, and, instead of managing for their "benefit," to annihilate "their affairs," as a body politic? Or could we convey a greater right than we ourselves possessed?

But this is not all. The gentleman passed over, in utter silence, a most important event which intervened between the treaty of Hopewell and the compact of 1802. It is the treaty of Holsten, made in 1791, by which the United States again promised the Cherokees to protect them in their rights as a nation; and the Seventh Article holds the following language: "The United States solemnly guarantee to the Cherokee nation all their lands not hereby ceded." If any right was transferred to Georgia, it would be such only as existed at the time, and subject of course to the stipulations of that preëxisting treaty.

There is still another view of this subject. Are we not bound to see that our treaties are fulfilled? The Indians say that their very existence was threatened, and inquire of us whether we will perform our solemn promise of protection. What shall we answer? That we have conveyed that promise to another!—that we have transferred our obligation to Georgia!—have given her a license to violate our treaties! May they not reply, that the very purpose for which they purchased our guaranty, and the protection of the



strong arm of our Government was to secure them against the encroachments of their white neighbors in that State?

The compact of 1802, which has been so much insisted upon, was made between the United States and Georgia. The Cherokees were not parties, nor even assented to it. Of course, it could not impair their rights, or confer upon others any claim against them. If I, Mr. President, should promise the gentleman that I would obtain your farm and convey it to him, would that divest your title, or authorize either of us to wrest it from you by force? The compact itself expressly recognized "the Indian title," and the United States were to extinguish it only when it could be done "peaceably" and on "reasonable terms."

The gentleman having, as he supposed, fully sustained the treaty claims of Georgia, by the arguments upon which I have remarked, triumphantly exclaimed, "I will have my bond—I will have my pound of flesh."

A most unfortunate allusion, sir; and one which I should not have been unkind enough to make. He will have his pound of quivering flesh taken, from nearest the heart of the living man! But he must take it without one drop of blood.

———"Ay, there's the rub;"

For, in the cutting of that pound of flesh,

What human blood shall flow, "—ust give us pause."

The fiend-like Shylock himself could not take the penalty of his bond because "no jot of blood" was given. And none is given here, but the express contrary—"peaceably"—"peaceably"—and "upon reasonable terms" too, is the emphatic language. But against whom does the gentleman make his claim—the Indians? Does he hold their bond? No—they hold ours—they now present it to us and demand its performance—and, "till he can rail the seal from off that bond," he cannot absolve us from its obligations. He declares that he will have the terms of his compact fulfilled to "the twentieth part of one poor scruple," and to the division of a hair. So be it; and let the Indians too have their guarantied rights maintained with equal scrupulosity.

The Honorable Chairman of the Committee on Indian Affairs, (Mr. White,) conceded that the United States had repeatedly pledged their faith to the Cherokees to interfere for their protection, but contended that we ought not to perform these stipulations of



our treaties because of the conflicting claims of Georgia. He laid down this proposition, that, if the United States had come into engagements inconsistent with each other, so that it was impossible to keep both, that which was prior, in point of time, should be specifically performed, and ample compensation be made for the breach of the other.

To this position I freely assent ; and upon this basis will rest the argument.

It is incumbent, then, upon the Honorable Chairman to show, in the first place, that our obligations to Georgia are incompatible with our treaties ; and, in the next place, that they are of prior date. This, he, and two gentlemen who followed him in the debate, (Messrs. M'Kinley and Forsyth,) have attempted to do. Their argument is, that before the revolution, Great Britain had jurisdiction over the aborigines, and the sole right of treating with them, and that this power was wrested from her by conquest during the war, and forever abandoned by the treaty of peace in 1783.

I would first observe that, if it was obtained by conquest, it belonged to the conquerors. And who were the conquerors ? The United States ; who were also a party to the treaty of peace. Upon this ground it was, that New Jersey, Delaware, Maryland, and other States so strongly insisted, that the Crown lands, which had been acquired by the common arm, and at the common expense, belonged of right to the common fund. Their demand to a great extent succeeded. The several States yielded to their pretensions by successive cessions ; Virginia magnanimously taking the lead.

But, Mr. President, I shall not dwell upon this ; for I mean, as far as possible, to avoid all debatable ground.

Concede, then, for the present, that when Georgia became independent, in 1776, she at once succeeded to all the preëxisting rights of Great Britain over the unmeasured forests within her chartered limits. What was that right ? Gentlemen say it was the right of discovery. Discovery, sir, confers no claim or right against the natives—the persons discovered—but only as between discoverers. It is said that the rights derived from this source were established and defined in Europe, upon the first discovery of this country. True ; but it was by the mutual understanding and agreement of the nations of that continent only, in order to regulate their conduct among themselves. To prevent conflict and collision, it was tacitly agreed that the Sovereign, who should

find a country, theretofore unknown, should have the exclusive right to the benefits of the discovery, and should be permitted without interference to conduct towards the aboriginal inhabitants according to his conscience, and his ability. He had, therefore, as against discovering nations who had assented to the arrangement, a conventional right to wage war upon and conquer the natives, and subject them to his sway. It is this right to which it is contended that Georgia succeeded upon the declaration of Independence. Let it be so considered; and that, in the war which she should wage to subjugate the Indians, no other State or nation could rightfully interfere. But the people attacked had a right to resist. They surely were under no obligation to acquiesce in the proposed subjugation. Suppose, then, they should happen to be too strong for their assailants; that they should roll back the tide of war—the hunters should be hunted—that those who came to conquer should be in danger of being conquered; and, in such emergency, the people of Georgia should call upon another State, Virginia, for example, for protection and defence. Georgia would then have waived her conventional right to exclude all others from her limits, and Virginia would, at her request, become a party to the war. Would not Virginia then have the right to make peace for the security of her own citizens, and must she not be bound by its terms? Was France bound by her treaty of alliance with us during the revolution? Yet her interference was without the consent of Great Britain, the discoverer. Are the United States now bound by their treaties with the States of South America?

But, further, what if Georgia, in order to induce her neighbor to come in for her defence, had expressly agreed, beforehand, that Virginia should have the sole power of conducting the war, and concluding the peace? Would not both States be bound by the treaty of peace thereupon made by Virginia? To proceed one step further, suppose that this arrangement between the two States, instead of being occasional, should be established by a permanent compact; and that, in order to obtain the aid and protection of Virginia, at all times, against the attacks of the Indians, Georgia should agree that she never would herself provoke such attacks by making war upon them, and that, if it should arise, her more powerful ally should have the entire management of the war, and the exclusive right of agreeing upon the terms of peace and making the treaty. Would not such terms be obligatory?

Now, sir, such a compact was actually made by Georgia with Virginia and eleven other States, by the Articles of Confederation.

By the Third Article, the United States are bound to assist the several States, "against all force offered to, or attacks made upon them, or any of them." And by the Ninth Article, the United States have "the sole and exclusive right and power of determining on peace and war, except in the cases mentioned in the Sixth Article," and also of "entering into treaties."

Here is the express grant. What answer can be given to it? What reason can be assigned, why each State should not be bound by the stipulations of a treaty of peace? Will it be said we could not have the relations of war and peace with the Indian tribes? Ask the relatives of Braddock and Butler, of Wayne, Harmer, and St. Clair, if Indians can wage war? Consult the crimsoned pages of your history and they will answer you. Nay, to banish such a suggestion forever, that same Ninth Article of Confederation expressly declares, that, by war, it means to include contests with Indians; for, by reference, it incorporates into it the Sixth Article, which is in these words:

"Article Sixth. No State shall engage in any war without the consent of the United States, in Congress assembled, unless such State be actually invaded by enemies, or shall have received certain advice of a resolution formed by some nation of Indians to invade such State, and the danger is so imminent, as not to admit of a delay, till the United States, in Congress assembled, can be consulted." Here is also an unequivocal relinquishment, by each State, of the right to make war upon the natives.

During the revolution, war actually existed between the United States and the Cherokees; it continued to rage after the acknowledgment of our independence by Great Britain. Georgia needed our aid, and received it. The Indians were then powerful and terrific. The United States were desirous of peace; they sought it, and it was established in 1785, by the treaty of Hopewell, which has been already referred to. It secured to the Cherokees, their previous right to exist, as a community, upon the territory in their previous possession. Such a treaty would have been obligatory upon any State, if the Articles of Confederation had never existed; but by that compact a right was expressly given by Georgia herself to make it, and the United States were in duty bound to exercise that power.

And now I ask what prior incompatible obligations to Georgia absolve us from its stipulations, or render it impossible to fulfil them?

Such was the power, and such the practice, of the Confederation up to the time of the formation of our present Constitution, in September, 1787. No longer previous than the preceding month, we find a committee of Congress, in an able and elaborate report, declaring that the United States cannot interfere in behalf of a State against a tribe of Indians, "but on the principle that Congress shall have the sole direction of the war, and the settling of all the terms of peace with such Indian tribe." And this language was addressed particularly to Georgia by name, and with respect to the Indians within her limits. This was in August.

The Constitution was formed in the following September. The Sixth Article declares, that "treaties made, or which shall be made, under the authority of the United States shall be the supreme law of the land"—"any thing in the Constitution or laws of any State to the contrary notwithstanding." This was an express confirmation of the treaty of Hopewell; which had been made in November, 1785, less than two years before, and was then in full force.

The State of Georgia, with full knowledge that it had been so made, and that it was considered, by the United States, to be valid and obligatory, voluntarily adopted the Constitution, thereby herself most solemnly affirming and establishing that treaty; and, whatever may have been said before, never, since that time, until recently, when the present controversy arose, has she, in any manner, denied its validity, or objected to its being carried into effect.

Such is the argument in support of the treaty of Hopewell. I shall leave it by adducing but one other proof of its validity, in the opinion of General Washington, and the Congress of 1778, and their determination to enforce it with scrupulous fidelity. It is the proclamation of September 1, 1778, which declares it to be "the firm determination of Congress to protect the said Cherokees in their rights, according to the true intent and meaning of the said treaty;" and a resolution was adopted to hold in readiness a sufficient number of troops to enforce that declaration.

Under our present Constitution, many treaties have been regularly made with the Cherokees. The first was at Holsten, in 1791. The reasons which have been adduced in support of the power to



make the treaty of Hopewell are applicable to this with increased force.

The Constitution was formed because the Confederation was too weak to answer the purposes of the Union. It substituted a Government in place of a mere confederacy, conferring upon it additional powers, and further limiting those of the individual States. By the articles of Confederation, the power of Congress to regulate the trade and manage affairs with the Indians was subject to a proviso, that "the legislative right of any State, within its own limits, should not be infringed." This restriction is the only ground upon which doubts could ever have been suggested of the power of the Confederation to enter into treaty stipulations; it gave no countenance, however, to such suggestions, because it was a limitation upon another grant of power, distinct from that of establishing peace and making treaties. But even this restriction is omitted in the Constitution, and Congress are empowered to regulate commerce with the Indian tribes in unqualified terms.

The Constitution vests, in the United States, the sole and exclusive power of making war and concluding peace. It expressly provides, "that no State shall engage in war," or "enter into any treaty." Here is an unequivocal relinquishment of the right of Georgia to make war upon or treat with the Indians. And what is the right which it is said devolved upon her as successor to the sovereignty of Great Britain? The right of a discoverer; that is, a right, as against others, and without their interposition, to attack, and by force subdue the natives; to make war for the purpose of conquest. But Georgia covenants, by our fundamental compact, not to engage in war for that or any other purpose; to attack no nation or political community.

The United States have the sole power of making peace; this can be done only by treaty. At Hopewell, in 1785, we made a treaty of peace. Open war had raged between the United States and the Cherokees up to that time. They had been the allies of Great Britain, but never had been ours, or in any manner contracted with us. Was not that treaty rightfully made and obligatory?

At Holsten, in 1791, we made a treaty of peace and friendship. It is so denominated on the face of it. It was the termination of an actually existing war; of this, there is no doubt. The Chairman of the Committee of Indian Affairs, in his written opinion of 1824,



states the fact, that war was raging. The gentleman from Georgia, says that his State applied to the United States for aid and protection in that war. The report of the Committee of Indian Affairs now before us, declares that the Cherokees waged war against the citizens of the United States. At Holsten, we then undeniably made a treaty of peace to terminate an existing war. The authority was express and exclusive. Are not the United States bound — will they abide by it ?

The First Article is — “There shall be perpetual peace and friendship between all the citizens of the United States of America, and all the individuals composing the whole Cherokee nation of Indians.”

“Article Seventh—The United States solemnly guaranty to the Cherokee nation, all their lands not hereby ceded.”

“Article Fifteenth—All animosities for past grievances shall henceforth cease, and the contracting parties will carry the foregoing treaty into full execution with all good faith and sincerity.”

The question now is, shall we carry these articles into effect with any good faith or sincerity ?

Will it be pretended that the United States might make peace, but had no authority to insert such stipulations as those I have quoted. Sir, the substance of these articles are of the essence of a treaty of peace. In every contract, each party recognizes the separate existence of the other ; and a treaty of peace — not a truce, not an armistice, not a temporary cessation of hostilities, but a treaty of peace, in its nature a permanent, enduring contract, must bind each party to respect the existence of the other, and never to assail or attempt its destruction — must obligate each also to permit the other to continue that existence upon its own territory without attack or violence. To attempt to expel them by force, or subjugate or destroy their separate being, is a violation of the compact of peace, and a renewal of the war. In terminating hostilities, therefore, by their undoubted constitutional power, the United States not only rightfully, but of necessity, embraced such terms as these. Are they not obligatory ? I am not contending, Mr. President, that the United States can cede away a part of any State to a foreign nation, as France or Great Britain, for example. That question I do not mean to touch ; it is wholly unnecessary. I only say that they may agree that the other party may continue to exist upon the lands which they have always occupied ; may retain that which has ever been their own.

But this is not all. The Constitution proceeds still further, and gives to the United States the general right to make treaties, not merely of peace, but all others. This power is not only clearly and positively conferred on the Union, but expressly inhibited to its several members. It has been repeatedly and continually exercised in relation to the Indian tribes within the United States, and that by the acquiescence and assent of Georgia herself.

I know it is said Georgia protested ; and this has been repeated, reiterated, and insisted upon in every variety of form, as applicable to both the treaties, and all the questions which have been presented. Let us examine :

The first alleged protest was in February, 1786, prior to the treaty of Holsten. It is the report of a Committee, accepted by the House of Representatives only. The objections urged therein apply exclusively to the treaty of Hopewell, and must have rested only on the ground of the reservation, before mentioned, in one of the Articles of Confederation, and which was omitted in the Constitution.

The next protest was in February, 1797. It makes no objection whatever to the treaty of Holsten, and thereby impliedly approves and assents to it. It protests against two treaties with the Creeks, made at New York and Colerain, and the intercourse law of the United States. The grounds of objection insisted on, are, that the intercourse law places the military above the civil authority, and prohibits pursuit and retaliation for Indian outrages. That the Creeks, by the treaty of Galphinton, in 1785, confirmed by a subsequent treaty at Shoulderbone, had submitted themselves to Georgia, and become members of the State, and ceded to her a tract of land which had been actually organized into a county by the name of Tallassee. And the State protests "because the treaty of New York, in 1790, after the said cession being acted on, constitutionally erected and laid out into a county, and the lands appropriated, did sever, cut, and lop off the land so ceded before the power of the Federal Constitution existed, and *ex post facto* declared they were vested in, and belonging to, the Creek Nation of Indians ; and because the said intercourse law and treaty of Colerain have confirmed the same."

Their complaint is, substantially, that the United States had taken from Georgia, lands which had "been duly ceded, fairly

paid for, and legally and constitutionally laid out into a county." In conclusion, they "most fervently solicit a revision of the intercourse law, and the New York and Colerain treaties, and requiring a confirmation of the county of Tallassee to the State." And, "they most earnestly solicit the assistance of the United States to attain the cession of land the treaty of Colerain, they trust, was intended to establish." These protestations insist that the treaties of Galphinton and Shoulderbone were invalid by reason of the before named reservation in the Articles of Confederation; but nowhere deny, and by implication admit, the general right of the United States to make treaties with the Indian tribes, and guarantee to them the possession of their lands.

They do not breathe a whisper of objection to the treaty of Holsten, of 1791, or to any of the powers involved in making it, but acquiesce therein.

In February, 1796, by an act of her Legislature, to which I shall hereafter recur, she expressly declared that the United States had the right to make treaties with the Indians; a right which they have continually exercised, and which she has never questioned, until this recent controversy arose. Not less than fourteen treaties have been entered into with this same Cherokee Nation since the adoption of the Constitution: in 1791, 1792, and 1794, by General Washington; in 1798, by Mr. Adams; one in 1804, two in 1805, one in 1806, and one in 1807, by Mr. Jefferson; three in 1816, by Mr. Madison: one in 1817, by Mr. Monroe—General Jackson being the negotiator; and one in 1819, by the same President—Mr. Calhoun being the negotiator. By more than half these treaties, large cessions of land were obtained, boundaries defined, and the remaining territory, and the protection of the United States again and again guaranteed to the Indians.

Shall Georgia now be permitted to deny their validity? If a man, seeing another in the act of making a deed of his land to a third person, shall stand by in silence, until the conveyance is completed, and the grantee has parted with his money, paid the consideration, would any Chancellor, that ever sat in a Court of Equity, permit that man to reclaim his property, and thus consummate a fraud on the fair purchaser? But, suppose that he shall not only thus witness the conveyance perfected, and the money paid, but himself receive the consideration; can he, with the fruits of the contract in his pocket, lay his hand upon the prop-

erty, and wrest it from the innocent grantee? Georgia not only acquiesced, but actually received all the lands ceded by the Indians, and for which they obtained our promise of protection. I have in my hand, some of her laws disposing of the acquisitions.

The title of one is, "An act to dispose of and distribute the cession of land obtained from the Creek and Cherokee nations of Indians by the United States, in the several treaties of August 10, 1814, July 8, 1817, and January 22, 1818."

And of another, — "An act to dispose of the territory lately acquired of the Cherokee Indians by a treaty held by the Honorable John C. Calhoun, at the city of Washington, on the twenty-seventh day of February, 1819." There are others of similar tenor.

And now, retaining these acquisitions, holding the proceeds of these treaties in her hands, she declares that they are invalid; thus at the same moment binding the Indians by their stipulations, and denying them the benefit of ours.

She has not only thus declared the right of the United States to make treaties, and assented to them when made, but has repeatedly urged that they should be entered into for the purpose of obtaining further acquisitions for her benefit; and, even as late as the year 1825, contended that the treaty of the Indian Springs with the Creeks, was obligatory, and should be carried into effect.

And it was not until the Indians had firmly refused to assent to further cessions, and it was perceived that no more lands could be acquired by negotiation, that the doctrine arose which denies to the United States, their right to make these compacts.

Mr. President: What have the Senate heard to obviate the force of the facts and arguments which I have adduced? What answers have been given? I will advert to them all.

And first, as to the acts and acquiescence of Georgia, we have the reply in the report of the Committee, that, as she protested against the treaty of Hopewell, made in 1785, "no inference can be drawn to her disadvantage, from her silence, or from anything she may have said in relation to any subsequent treaty, because in each of them a change was made, by which a portion of her territory and jurisdiction was restored to her, and thus her condition rendered better," etc. Who does not perceive that, under this form of words of restoring what she never possessed, but which belonged to the Cherokees, before she had a being, the



substantial, real cause of her assent is alleged to be the benefits which she received ! Yes, sir ; she did receive the fruits of these solemn contracts ; by the establishing of peace and additions to her territories, in 1791 ; by the cessions of 1798, 1804, 1805, 1806, 1807, 1816, 1817, and 1819. And shall we be told that because it was for her interest to be silent, because she was receiving the consideration of the compacts, therefore she now, after twenty years' assent, is under no obligation to abide by them ?

The Honorable Chairman, in his opening speech, assigned several reasons why the United States could not constitutionally form such treaties. The first was, that "the creature could not possess power to destroy its creator." This expression is calculated to mislead the judgment, because it refers the mind at once to the relation, in which we frail and feeble mortals stand to our Omnipotent Maker ; and it would seem to be just as true to say, the creature cannot diminish the power of its Creator. The gentleman applies it to the General Government, as the work of the several States. Is it true that it cannot, that it does not, take any power from its several members ? The argument is, that if the Union can secure to the Indians, any portion of their territory by treaty, they may cede away a whole State. This would, indeed, as the gentleman must admit, be a gross and palpable abuse of the authority. His reasoning, then, must be, that the United States cannot possess any power which, by perversion, may be exerted to the destruction of one of its members. Can they, then, make any treaty with a foreign nation ? If so, there is the same danger of wrongfully transferring the State. Can they make war ? It would be the readiest means of lopping off a member by leaving it defenceless. Can they organize, discipline, and call forth the militia, and control the whole physical strength ? Sir, these are powers expressly inserted in the Constitution, and they are not to be argued out of it, by apprehensions of extravagant possible abuses.

The General Government was formed by the States — and the creature, says the gentleman, cannot have power to destroy any one of its creators. The State Governments, sir, were formed by individuals. If any of these should be guilty of a capital offence, might he not say, in the language of the Chairman, you cannot take my life — it is impossible, in the nature of things, that the creature can have power to destroy one of his creators ?



It is argued that the existence of an Indian community, within the chartered limits of a State, is inconsistent with "a Republican form of Government," as guarantied, by the Constitution, to every State.

This argument has been much relied on. It was advanced by the Secretary of War, repeated by the Committee, and reiterated in the speech of the Chairman. If this be so, Mr. President, a most unexpected result follows; it is—that Georgia has never yet had a Republican form of Government—for there has never been a moment, when such tribes did not exist within her borders. At the time of the adoption of the Constitution, this same Cherokee nation was much more numerous, and held sway over a much wider region than at the present time. Nay, the Constitution itself confirms the preëxisting treaty of Hopewell, which recognized and guarantied the separate existence of the tribe; and which is now contended to be incompatible with that fundamental compact. Is the existence of a body politic, which the Legislature cannot destroy, necessarily incompatible with a Republican form of Government? How is it with Dartmouth College, in New Hampshire, or the chartered cities of other States?

Another proposition derived from the same elevated source, and urged with equal vehemence here, is, that these treaties cannot be valid, because the Constitution declares that "no *new* State shall be formed or erected within the jurisdiction of any other State, without the consent of the Legislature" thereof.

Sir, no one proposes to create a new State, but to *continue* an *old* tribe, or State, if you so please to denominate it. It is to keep faith with a political community more ancient than Georgia herself; it is to preserve, not to form anew. Here again, I would observe, that this nation of Cherokees was as much a State at the time of the adoption of the Constitution as now, and had much greater power, and more extensive dominion; and that the treaty of Hopewell, which the argument insists, formed a new State since the Constitution, and in violation thereof, was made two years before its adoption, and was confirmed and sanctioned by it.

We are next told that the Constitution recognized the right of the respective State Legislatures to pass their laws over, and annihilate these communities, by that clause in the first article, which provides that an enumeration of inhabitants as a basis for representation shall be made, "excluding Indians not taxed."

This provision undoubtedly implies that there could be individual Indians subject to taxation, and therefore to be counted; it also expressly declares that there might be those within a State, "not taxed."

There may have been, nay, there were, in some of the States, individual natives voluntarily residing within the white settlements separate from any tribe, and freely subjecting themselves to the local laws. There were those, too, whose nation, as a body, had disappeared; and because these persons had, of their own accord, thus sought the State Jurisdiction, does it follow that it could be extended over Indian nations, who had always resisted it, and with whom, at the moment this clause was written, and the Constitution formed, the United States had a treaty guarantying them against such taxation, and every other exercise of State authority over them? By what imaginable process could these words, "Indians not taxed," produce the magical effect of annulling the treaty of Hopewell, then existing in full force?

Let us substitute the word *aliens*, for Indians. The clause would then exclude "aliens not taxed." Will it be contended that foreigners existing as a nation, with whom we had treaties, as such, would be subject to the laws of a State? Would it not apply exclusively to the aliens, who had separated themselves from their nation, and mingled with our citizens?

As a last resort, and to me, it seems a desperate one, it has been earnestly contended by the gentlemen from Tennessee, Alabama, and Georgia, (Messrs. White, McKinley, and Forsyth,) that we cannot constitutionally make ANY treaty, with any Indian nation within the United States—that the express power to make "treaties" does not embrace compacts or agreements with such communities.

Wherever, sir, the relation of peace and war can exist, the United States must, of necessity, possess the right to make a treaty of peace. That this relation may exist with these native tribes, has never yet been doubted, and will not at this day be questioned. No one will have the assurance, in the face of all history, in defiance of what is known by the whole world, to declare that our contests with the aboriginal nations are on their part insurrections, rebellions subjecting them to be tried and executed as traitors. The Secretary of War will not say so, for he told the Cherokees, in April last, "Your people were at enmity with the United

States, and waged a war upon our frontier settlements ; a durable peace was not entered into with you until 1791." The Committee and its Chairman, (Mr. White,) will not tell us so, for their report, accompanying this bill, declares, that the Cherokees waged "a war against the citizens of these States, prior to the treaty of Holsten, in 1791"—Rebellion!—by those who never owed allegiance, and with whom, ever since our national existence, we have either had open war, or subsisting treaties !

But, independent of this power of peace and war, why does not the general authority to make treaties embrace those with the Indians ? Gentlemen content themselves with a positive and earnest denial.

The word treaties, say they, in the Constitution, does not mean compacts or contracts with Indian tribes. Why not ? Did not those who formed and adopted the Constitution so understand it ? To answer this question, we must ascertain how that word was used, and what were the ideas attached to it, at the time and anterior to its insertion in that instrument. This rule of construction is the foundation of all science. When any term is used by an author it is understood to carry with it the ideas which he has previously affixed to it ; that he denotes by it what he always has done. Hence, in the science of law, when the student has ascertained what the writer means by the words *fee simple*, or *larceny*, if he subsequently finds those words used by the same author, he attaches to them the same meaning.

These contracts with aboriginal communities have been denominated treaties from the first settlement of this country. It has been their peculiar and appropriate name, without even an *alias dictus*. Great Britain made treaties with the Indians ; the several colonies formed many, and gave them the same appellation. The Continental Congress, from the time it first assembled, until it was merged in the present national Government, uniformly called them treaties. They did so in 1775, 1776, 1778, 1783, 1784, 1785, 1786, 1787, 1788, and even to the day of the formation and adoption of the Constitution. We find them repeatedly and particularly mentioned in July, August and October, 1787 ; the Constitution being formed in September of the same year.

Nor is this all. In the Articles of Confederation, power was given to make treaties. It had been repeatedly exercised in establishing our relations with Indian tribes : particularly the Delaware,

the Six Nations, the Cherokees, the Choctaws, the Chickasaws, and the Shawnees; and, on the first of September, 1778, was issued the proclamation of Congress and of General Washington to enforce the treaty of Hopewell.

The word *treaties*, thus invariably known and used, and which had received a practical construction under the Confederation, was inserted by the same great men in the Constitution of the United States. Could any one doubt its meaning? Did Georgia misunderstand it? She had herself made *treaties* with all the forms of negotiation, through commissioners fully empowered, in 1773, 1783, and 1785; they were so denominated by her at the time, and ever afterwards. On the third of August, 1787, a motion was made by Mr. Few, delegate in Congress from Georgia, seconded by Mr. Blount from North Carolina, to take measures to "explain and confirm all former *treaties*" with the Creek Indians.

There is as much evidence that this word was intended to embrace conventions with such communities as the Creeks or Cherokees, as those with transatlantic nations, such as France and Spain.

Contemporary exposition has always been deemed of great force in settling even the most difficult questions of constitutional law. Practice and precedent too have often been considered as decisive authority. Mr. Madison, who has, with so much justice, been denominated the great constitutional lawyer of this country, declared, in a message to Congress, that the question, of the constitutionality of the Bank of the United States, had been so settled, by the sanction of the different departments of the Government, that it was no longer to be agitated; and yet only one bank had then been chartered. If his argument had, in that instance, any force, it is here irresistible.

From the organization of the Government, down to this very session of Congress, the practice has been unbroken and invariable. We find these treaties made in 1789, 1790, 1791, 1792, 1794, 1795, 1796, 1797, 1798, and almost, if not quite, every year since. I have counted no less than one hundred and twenty-four Indian treaties formed under the present Constitution, being more than three for each year. If authority and practice can settle any question, this is at an end.

In 1790, General Washington delivered a speech to the Seneca Indians, some extracts from which I will now read:



I, the President of the United States, by my own mouth, and by a written speech signed with my own hand, and sealed with the seal of the United States, speak to the Seneca nation.

The General Government only has the power to treat with the Indian nations, and any treaty formed and held without its authority, will not be binding.

Here then is the security for the remainder of your lands. No State nor person can purchase your lands, unless at some public treaty held under the authority of the United States. The General Government will never consent to your being defrauded; but it will protect you in all your just rights.

Hear well, and let it be heard by every person in your nation, that the President of the United States declares, that the General Government considers itself bound to protect you in all the lands secured to you by the treaty of Fort Stanwix, the 22d of October, 1784, excepting such parts as you may since have fairly sold to persons properly authorized to purchase of you.

Again:

But your great object seems to be the security of your remaining lands, and I have therefore, upon this point, meant to be sufficiently strong and clear.

That, in future, you cannot be defrauded of your lands. That you possess the right to sell, and the right of refusing to sell your lands.

That, therefore, the sale of your lands, in future, will depend entirely upon yourselves.

But that when you may find it for your interest to sell any parts of your lands, the United States must be present by their Agent, and will be your security, that you shall not be defrauded in the bargain you shall make.

You now know that all the lands secured to you by the Treaty of Fort Stanwix, excepting such parts as you may since have fairly sold, are yours, and that only your own acts can convey them away. Speak, therefore, your wishes on the subject of tilling the ground. The United States will be happy to afford you every assistance in the only business which will add to your numbers and happiness.

The United States will be true and faithful to their engagements.

Given at Philadelphia, 29th December, 1790.

GEORGE WASHINGTON.

By the President:

THOMAS JEFFERSON.

By command of the President of the United States of America.

H. KNOX, Secretary for the Department of War.

“The United States will be true and faithful to their engage-



ments." Such was the solemn declaration of the Father of his Country in the infancy of this Republic.—Heaven grant that his sacred promises may be kept, and his confident prediction verified. The question is now before us. No sophistry can evade, no ingenuity can elude it. Will "the United States be true and faithful to their engagements," or false and treacherous?

The Cherokees present this solemn interrogatory, and we must return a deliberate response. It seems almost as if their case had been formed for the purpose of determining whether it be possible to bind this nation by its plighted faith.

I have already referred to our repeated and reiterated engagements by the sages of the Revolution, in the Congress of 1785; by Washington and the constellation of brilliant names around him, in 1791, 1792, and 1794; by the elder Adams and his Cabinet in 1798; by Mr. Jefferson, in four successive treaties, in 1804, 1805, 1806, and 1807; by Mr. Madison, in several formed in 1816; by Mr. Monroe, in 1817, General Jackson himself, subscribing it with his own hand as commissioner; and by another in 1819, to which Mr. Calhoun affixed his name, as negotiator. All these treaties were ratified by the Senate, and sanctioned by every department of the Government.

In 1794, that greatest and best of men, whose name we profess so much to venerate, and which should be, of all others, the highest authority to this Senate and to the nation, delivered a speech to the Chiefs and Warriors of the Cherokee Nation, in which, speaking of the lands upon Cumberland, he says: "These have been confirmed by two treaties of Hopewell, in 1785, and Holsten, in 1791." Again—"The treaties which have been made cannot be altered. The boundaries which have been mentioned must be marked and established, so that no dispute shall happen or any white people cross over it."

In 1795, the Governor of Tennessee, upon which State it is now asserted these treaties are not obligatory, wrote a letter to President Washington, in order to "prevent infractions of them," by encroachment upon the lands of the Indians. And, as late as 1824, the gentleman from Tennessee, who reported this bill, (Mr. White,) gave an able and elaborate opinion in writing, in which he strenuously asserts and maintains their validity and the rights of the Indians. He says, "the Cherokees are to be considered as a nation, a community, having a country distinctly marked out, and

set apart for their use ; that their interest is as permanent and fixed in it, as the pledge and the faith of the United States can make it ; inasmuch as they have solemnly guarantied it to them as a nation without any limitation of time." With reference to the treaty of Holsten, he says they are "to be viewed as a nation, possessing all the powers of other independent nations, which are not expressly, or by necessary implication, surrendered up by that treaty." And again, "They have not surrendered the power of making municipal regulations for their own internal government."

But now that we, the United States, are called upon to "be true and faithful to these engagements," it is contended that they are not obligatory ; and in order to sustain that position, it is insisted that the Constitution gives no power to make treaties with Indian nations, within the United States, although every President of the United States and the members of his Cabinet, every Administration, and all the great men by whom it was surrounded and sustained, have formed and established such Indian treaties.

Every Senate of the United States, and, I believe, every member of every Senate, have ratified and confirmed such Indian treaties. Every House of Representatives of the United States, and, I believe, every member thereof, have affirmed and sanctioned them, by passing laws for their due execution, paying from year to year the annuities secured by them, and making appropriations to enable the President to hold others. At this very session, the Senate has ratified new treaties ; and, during the present month, we have made an appropriation to enable the President to form another, with the tribes in Indiana. While that bill was under discussion, an amendment was proposed, prohibiting the use of any part of the money therein granted, in secret presents to the Chiefs ; and it was insisted by the gentlemen from Tennessee, Louisiana, and Illinois, (Messrs. Grundy, Livingston and Kane,) that such a proviso, merely restricting the use of money, which Congress was granting, would trench upon the high, independent and constitutional power of the President in negotiating treaties. Nay, the second section of the bill now under consideration, provides for the removal of "any tribe or nation of Indians, now residing within the limits of any of the States or territories, and with which the United States have existing treaties,"—and now we are told by the chairman, that such treaties cannot exist—that they are no treaties.

It is in effect asserted, that every President, and every Senate, have been guilty of usurpation, in extending the treaty-making power beyond its legitimate objects. For if these contracts are not treaties, within the true meaning of the Constitution, they could be made only by the authority of Congress. But the President and Senate alone—the treaty-making power—have always negotiated them, ratified them, and by proclamation announced them to the nation, as the supreme law of the land. Every State legislature, and the whole people, have heard these annunciations, and looked on, during all these proceedings, in silent acquiescence.

Even in 1798, when all the acts of the General Government, and particularly those of the executive, were scrutinized with the utmost rigor, it was never suggested, even in Virginia, where the discussions were most animated, that there had, in this respect, been an irregularity. But now, upon the pressure of an exigency, it is discovered, for the first time, that all has been wrong. The present occasion has brought with it new and peculiar lights, by which gentlemen now perceive what was in the minds and intentions of the framers of the Constitution, better than they did themselves. They were ignorant of their own work. The venerated fathers of the Republic, and all the high and honored names, who have presided over its destinies, have been involved in deep darkness, and wandered in gross error!

I have thus, Mr. President, endeavored to present my views with respect to the claims of the State of Georgia. Whether we regard original principles of international law, as applicable to the right of discovery—or the express powers conferred by the articles of Confederation—or the confirmation of preëxisting treaties, by the adoption of the Constitution—or the authority vested by that instrument in the General Government, and the renunciation of powers by respective States—the invariable practice and usage of the Union, and the acts, acquiescence, and assent of Georgia herself—it is manifest that we are bound to perform our engagements to the Indians, and are under no incompatible and paramount obligations to that State.

But let us now, for the sake of argument, make the violent supposition, that the pretensions of Georgia are well founded, and that the United States cannot rightfully fulfil their stipulations as against her. In that case, the States of Alabama and Mississippi would stand on very different ground. Their claims have been

mingled and blended with those of the elder sister, as if they were precisely the same, and hers have been put forward as the only subjects of discussion, when in truth there is a broad line of distinction, which ought to be marked and remembered. For the sake of distinctness and brevity, I shall speak of Alabama alone.

It is conceded, on all hands, as a fundamental proposition, that the United States are bound to fulfil their engagements to the Cherokees specifically, except when prevented by incompatible obligations, prior in point of time.

Now, sir, the State of Alabama did not exist until the year 1819, when she voluntarily came into the Union after the fifteen treaties with this nation had been previously established and proclaimed as the supreme law of the land.

But it is said that Alabama was formed from territory once belonging to Georgia, and succeeded to all her rights. Without stopping to examine the difficulties attending such a supposed transmission of a right to resist treaties, it is sufficient to say that, by the compact of 1802, Georgia ceded to the United States all her "right, title, and claim" "to the jurisdiction and soil" of all the territory now constituting Alabama and Mississippi. The whole right of Georgia, whatever it was, thus became vested in the General Government, and so remained until 1819; during which time not less than eight of these treaties were made. Who could then contest their validity? Are our treaties valid with the nations in Florida, Arkansas and Michigan? Can we enter into engagements with any tribe within the boundaries of the United States—even beyond the Rocky Mountains, or anywhere upon this continent? Can we make the solemn guarantee proposed by this bill? If so, we are legally constrained by our promises to the Indians of Alabama made before the existence of that State.

But this is not all. Still another insuperable difficulty presents itself to her claims to legislate over and destroy the Indian nations.

The following article is a part of the fundamental law to which Alabama owes her being, and without which she cannot exist: "The utmost good faith shall always be observed towards the Indians; their lands and property shall never be taken from them without their consent; and, in their property, rights, and liberty, they never shall be invaded or disturbed, unless in just and lawful wars authorized by Congress; but laws founded in justice and humanity shall, from time to time, be made for preventing wrongs



being done to them, and for preserving peace and friendship with them." This was originally a part of the Fourth Article of the Ordinance respecting the North Western Territory, and was by express reference incorporated into the First Article of the compact of 1802, and made a fundamental and perpetual condition in the Act of Congress which provided for the admission of Alabama.

What is the answer to all this? We have it from the gentleman from Alabama, (Mr. McKinley.) "The compact of 1802," says he, "was unconstitutional; Georgia could not transfer to the United States either soil or jurisdiction."

If this be so, the first consequence is, that the dispute between that State and the General Government, respecting the ownership of the crown lands obtained by conquest, which that compact was supposed to have happily put to rest forever, by mutual and reciprocal cessions—could never be settled!

In the next place—that the combined powers of the State and of the Union, cannot do that, under the Constitution, which the members, individually, might have done without the Constitution. It is an attribute of complete sovereignty to be able to convey and receive territory. It is insisted that this attribute, as between the States, is annihilated—although all powers not granted are reserved to the members. I will not say that such an effect could not be produced by the Constitution, but it is at least so extremely improbable, that those who contend for it, in any particular instance, should be required to show it clearly, which has not been done.

It is insisted by the gentleman that no State can be subject to the restraining condition of the Ordinance referred to, because it is inconsistent with her constitutional equality with the other members of the Union.

That Ordinance was established in July, 1787. It declares that, "The following articles shall be considered as articles of compact, between the original States, and the people and States of said Territory, and forever remain unalterable, unless by common consent." Then succeeds an article embracing the clause before read, and which was incorporated into the compact of 1802. The Ordinance subsequently declares that "the said Territory, and the States, which may be formed therein, shall forever remain a part of this Confederacy."

This Ordinance and all its provisions was affirmed and estab-



lished by the adoption of the Constitution, and thus that instrument itself contemplated that all the States, to be thereafter formed Northwest of the Ohio, should be forever subject to those conditions ; by which it is now contended, no one could ever be constitutionally restrained !

It is insisted, by the gentleman from Alabama, (Mr. M'Kinley,) that Georgia could not transfer soil and jurisdiction to the United States ; that the compact of 1802, attempting to do so, was unconstitutional and void ; and that the tract of country, which it was intended to convey, remained a part of that State until the year 1819.

If the gentleman's doctrine is correct, it remains so still ; she having never conveyed it.

Another consequence would flow from this doctrine, which I should exceedingly deplore ; it is, sir, that Alabama is not a member of this Union ! By the Constitution, no new State can be formed or admitted into the Union within the limits of an old one, without the consent of the latter. Now, sir, Georgia has never consented to the admission of Alabama, except by the transfer of soil and jurisdiction by virtue of the compact of 1802. If that conveyance was inoperative, no consent has been given. If that compact was absolutely void, as the gentleman contends, it is a legal nullity, and he can hold no rights under it.

Congress, too, have never given their consent, except upon the basis of the binding efficacy of that compact, and upon the express condition that its requisitions should be the fundamental law of the new State. But, says the gentleman, Congress had no power to pass such a law. If so, the act respecting the admission of Alabama was unconstitutional and void, and neither created nor admitted any new State.

The ingenious gentleman has reasoned so profoundly upon constitutional law that he has argued himself and his colleague out of their seats in this Senate ! Now, sir, against this, I most seriously protest—they cannot be spared—we need the aid of their talents and experience.

How will the gentleman escape from the consequences which I have deduced ? Will he contend that the compact and the law were valid and invalid at the same time ? That they conferred rights but could not impose obligations upon his State ? Even if such an extraordinary position were assumed—how would it affect

the present question? If he can infuse any degree of vitality into that which was dead before its birth, if he can make that compact efficacious as the consent of Georgia to Alabama's becoming a State, would it not also be effectual as her consent that the United States should exercise jurisdiction over the territory so far as to make treaties with the Indian tribes? If then the gentleman will admit that Georgia assented to any thing, by virtue of that compact, she consented to the formation of these treaties, and thus they were valid by her authority before Alabama was brought into being.

As a dernier resort, the gentleman insists that the true construction of the language of the Ordinance gives all the right over the Indians, for which his State contends, because the latter clause requires that "laws"—"shall, from time to time, be made for preventing wrongs being done to them, and for preserving peace and friendship with them."

That is, laws restraining the whites, our own citizens, from encroaching upon the natives, and thereby endangering the public tranquillity:—If Maine or New York should pass laws for "preventing wrongs being done to" the Canadians, "and for preserving peace and friendship with them"—would that give jurisdiction over the British provinces? But let us read the whole clause, the true construction of which confers this unlimited power.

"The utmost good faith shall always be observed towards the Indians;" which means that we may violate all our engagements at pleasure!—"their lands and property shall never be taken from them without their consent;"—that is, both may be taken by violence against their utmost resistance!—"in their property, rights, and liberty they shall never be invaded or disturbed unless in just and lawful wars authorized by Congress." There shall be laws for "preventing wrongs being done to them, and for preserving peace and friendship with them;"—the true construction of all which is—that a State may make war upon them at pleasure, deprive them of their lands, and annihilate their nation! To such arguments are gentlemen of great ability compelled to resort!

The rights of the natives, both natural and conventional, have been strenuously denied. What right, it is asked, have the Indians to the lands they occupy? I ask, in reply, what right have the English, or the French, the Spaniards or the Russians, to the countries they inhabit?

But it is insisted that the original claim of the natives has been divested by the superior right of discovery.

I have already shown that this gives no ground of claim as against the discovered, that it is a mutual understanding or conventional arrangement entered into, by the nations of Europe, amongst themselves, to define and regulate their respective claims as discoverers in order to prevent interference and contests with each other, all agreeing that the sovereign who should first find a new country should be left without interference from them to deal with it and its inhabitants, according to his ability and his conscience.

But, we are told, that grants from the king are the highest title, and have always been relied upon as such. True—as against other grantees from the crown, or against the government itself; but not as to the natives. If such a title gives any just claim as against them, then they are bound to yield to it; for to every right appertains a corresponding obligation.

Were the aborigines bound to yield to such pretensions? Suppose that, more than two centuries ago, when in unbroken strength they held resistless sway over this whole western world, a royal patentee, with his handful of followers just landed on these shores, should have found himself in the midst of a powerful Indian nation—the council fire is lighted up, and sachems and warriors are assembled around it—he presents himself, and says to them—

“This country is no longer yours. You must leave the forests where you hunt, and the valleys where you live. All the land which you can see from the highest mountain, is mine. It has been given me by the king of the white men across the waters. Here is his grant—how can you resist so fair a title?”

If they deigned any other reply than the war-whoop, their chief might say :

“The GREAT SPIRIT, who causeth the trees to rise from the ground towards the heavens, and maketh the rivers to descend from the mountains to the valleys—who created the earth itself, and made both the red man and white man to dwell thereon—gave this land to us and to our ancestors. You say you have a grant from your King beyond the waters; we have a grant from the King of kings, who reigns in heaven—by this title our fathers have held it for uncounted generations, and by this title their sons will defend it.”

It has been strenuously argued that the overflowing nations of Europe had a just claim to the occupancy of some portion of the vacant lands of the aborigines for their own subsistence.

The excessive population of China, and of Holland, have, at this day, the same ground of claim against the United States. May they, therefore, drive us even from our cities and villages, and take all our territory by force? We permit them to come and possess if they submit to our laws, and pay us for the soil. The Indians have been more liberal, having ceded both soil and sovereignty to hundreds of millions of acres. The Cherokees have no more to spare; they need the residue for themselves. Shall they be permitted to retain it? That is now the question.

To avoid, as far as possible, all questionable ground, I at present contend only that the Indians have a right to exist as a community, and to possess some spot of earth upon which to sustain that existence. That spot is their native land. If they have no claim there, they have no right anywhere. Georgia asserts that the lands belong to her—she must and she will have them—even by violence if other means fail. This is a declaration of right to drive the Cherokees from the face of the earth; for, if she is not bound to permit them to remain, no nation or people are bound to receive them. To that for which I now contend, the Indians possess not only a natural, but also a legal and conventional, right. These two grounds of claim have been blended and confounded.

The rights which the United States have claimed with respect to the territory of the aborigines, have been two-fold; preëemptive and reversionary, a right to purchase to the exclusion of all others, and to succeed the natives, should they voluntarily leave the country, or become extinct.

It will at once be perceived that this is a right to exclude others from interference, but not to coerce the Indians. It leaves to them the perpetual, undisturbed occupancy. They cannot indeed transfer their country to others, but this does not impair their title, although it may diminish its value in the market. It still belongs to them and their heirs forever. If a State should, by law, prohibit its citizens from making sale of their lands without the assent of the Executive, would it destroy every man's title? Nay, the laws do now prevent conveyances to aliens. The right claimed is merely to exclude all others from purchasing of the aborigines. It will be divested of much of its appearance of harshness toward



them by recurring to its origin. It was the primitive agreement or mutual understanding between exploring nations, that whichever should first find a new country, should alone possess the privilege of dealing with the natives; and, upon this ground, the discoverer excluded others from becoming purchasers. He had the right of preëmption. This agreement trenchèd not upon the title of the aborigines; and, as to its affecting the value of their lands, by preventing competition in the purchase, there would have been no purchaser but for the discovery.

There is no mystery in the international law of discovery. So far as it relates to this subject, it is the same as if five or six persons, being about to go in search of sugar lands in South America, should mutually engage that they would not interfere with each other in their purchases. Such agreement would do no wrong to the original owner.

The reversionary claim, as it may be denominated, although in strictness that cannot revert to another, which always belonged to the present possessor, is the necessary consequence of the exclusion of others from purchasing. It is merely a right of succession of lands of the Indians when they shall have become extinct, or have voluntarily abandoned them by emigration, as the property of individuals sometimes escheats to the government for the want of heirs.

The right of the aborigines, to the perpetual and exclusive occupancy of all their lands, has been always recognized and affirmed by the United States. It was respected by Great Britain before the revolution; as appears by the royal proclamation of 1763, in which all persons are commanded "forthwith to remove themselves" from lands, "which, not having been ceded to or purchased by us, are still reserved to the said Indians:" and after reciting that individuals had practised fraud upon the natives, forbids private persons from making purchases, "to the end that the Indians may be convinced of our justice" and provides that if "the said Indians should be inclined to dispose of the said lands, the same shall be purchased only for us, in our name, at some public meeting or assembly of the said Indians, to be held for that purpose."

That right was recognized by the Confederation; as appears by the whole tenor of their proceedings; particularly their treaties, by which they purchased a part and guarantied the remainder; by



the report of a Committee in August, 1787, which declares that the Indians have "just claims to all lands occupied by and not purchased of them," and the proclamation of Congress in September 1788, which has been already referred to.

That, under our present Constitution, the rights of the natives and the relation in which they stand to the United States, are such as I have described; is clearly manifested, by the speech of President Washington to the Senecas, in 1790, from which I have already presented some extracts, and by the following explicit and deliberate letter of Mr. Jefferson, written to the Secretary of War, in 1791; "I am of opinion that Government should firmly maintain this ground, that the Indians have a right to the occupation of their lands, independent of the States within whose chartered lines they happen to be; that, until they cede them by treaty, or other transactions equivalent to a treaty, no act of a State can give a right to such lands; that neither under the present Constitution, nor the ancient Confederation, had any State or persons, a right to treat with the Indians, without the consent of the General Government; that that consent has never been given to any treaty for the cession of the lands in question; that the Government is determined to exert all its energy for the patronage and protection of the rights of the Indians, and the preservation of peace between the United States and them; and that, if any settlements are made on lands not ceded by them, without the previous consent of the United States, the government will think itself bound, not only to declare to the Indians that such settlements are without the authority or protection of the United States, but to remove them also by the public force." Also by the intercourse law of 1790—forbidding all encroachments by citizens of the United States, upon the "territory belonging to any tribe or nation of Indians;" by many other statutes, particularly that of March, 1805—by all the treaties of purchase and cession—all the laws to carry them into effect and pay the consideration—and all the acts for enabling the executive to extinguish Indian titles."

The gentleman from Georgia, (Mr. Forsyth,) has referred to the Correspondence at Ghent to sustain his denial of rights to the Indian tribes. He relied upon the views of the American commissioners in repelling the claims of the British. As it is sometimes more satisfactory to read for ourselves, than to take the construction of others, permit me, sir, to present to you an extract from that

correspondence: "Under this system, the Indians residing within the United States are so far independent that they live under their own customs, and not under the laws of the United States; that their rights upon the lands where they inhabit, or hunt, are secured to them by boundaries defined in amicable treaties between the United States and themselves; and, when these boundaries are varied, it is also by amicable and voluntary treaties, by which they receive from the United States ample compensation for every right they have to the lands ceded." "Such is the relation between them and the United States. That relation is not now created for the first time, nor did it originate with the treaty of Grenville."—And subsequently, "the treaty of Grenville was merely declaratory of the public law—on principles previously and universally recognized."

To this, sir, was subscribed the names of Adams and Gallatin, of Clay, and Bayard, and Russell.

The Gentleman from Alabama, (Mr. M'Kinley,) to show that the natives have no title to the soil, cited the case of Johnson and McIntosh, decided by the Supreme Court of the United States, and reported in the Eighth of Wheaton.

To see how precisely that case sustains my positions, let me read a few very short extracts from the opinion of the Court as delivered by Chief Justice Marshall. It declares that the right of the United States, or the several States, is "subject to the Indian right of occupancy." That "the original inhabitants are the rightful occupants of the soil, with a legal as well as a just claim to retain possession of it, and to use it according to their own discretion." And again, "it has never been contended that the Indian title amounted to nothing. Their right of possession has never been questioned."

Georgia herself has recognized those established rights of the natives, and the relation they bear to the General Government.

By a law, passed in 1796, respecting the vacant lands within her chartered limits, she held the following language: "The territory therein mentioned is hereby declared to be the sole property of the State, subject only to the right of treaty of the United States to enable the State to purchase under its preëmption right the Indian title to the same." A most pregnant act of legislation. It expressly admits "the Indian title"—that the claim of the State is only "to purchase" under its preëmption "right"—that even

this she could not do, unless "enabled" by the United States—that the United States had "the right of treaty" with the Indians; and that the claims of Georgia were "subject to" that right.

In the compact of 1802, she stipulated, by reference to an Article of the ordinance before mentioned, for the inviolability of the lands, property, rights and liberty of the Indians, upon the territory relinquished; and recognized their just claim to lands, in that which was retained, by the Article which binds the United States, "at their own expense," to extinguish the "Indian title" thereto as early as it could be done "peaceably and upon reasonable terms."

The titles of the Acts which I read, and several others, speak of the lands therein disposed of as "acquired," "obtained" from the "Creek and Cherokee nations," by the treaties held by the United States.

Even the Act of December last contains a plenary admission that the lands in question were never before subject to her jurisdiction. A part of the title is "to extend the laws of the State over"—"the territory now occupied by the Cherokees." The sixth section expressly extends the laws of the State over the same, and the inhabitants thereof. Sir, does not the legislation of every State, of itself, operate upon all the country within its jurisdiction? The laws of Georgia were not before limited to any parts of the State; they were general; they covered the whole; and are now extended over the residue!

We have heard a great deal, in this debate, of the rights of conquest; and are told that it is always recognized as valid by the judicial tribunals. True, sir, by those of the conqueror. How can they do otherwise? Suppose that Congress should now declare a war for the sole purpose of wresting Canada from Great Britain, and should succeed; could our own courts question this exercise of political power, and refuse to sustain our jurisdiction over the country, however iniquitous the acquisition? And if, in this Government, where the political sovereign is under the restraints of the Constitution, the courts cannot interfere, how could they in Europe, where this doctrine had its origin? There, the legislative and political powers are unlimited. Even in England, the Parliament is legally omnipotent; and who ever heard of a judicial court undertaking to annul any of its enactments? Whatever may be the acquiescence of other nations in the exercise of power by a conqueror, it is no ground of just claim as

against the conquered. They, surely, are not bound to submit, if new means of resistance can be found. To give to conquest—to mere force, the name of right, is to sanction all the enormities of avarice and ambition. Alexander and Bonaparte are justified! Britain has done no wrong in sweeping India with the hand of rapine, and holding fifty millions of people in thralldom! All the cruelties of the Spaniards in South America; the crimes of Pizarro and Cortez, tracking the fugitive natives in terror and dismay with bloodhounds, to the caves of the mountains, and stretching their wretched monarch upon burning coals to extort from him the secret of his treasures, are sanctified by the name of right! This right of conquest, gentlemen contend, is the legitimate offspring of the right of discovery. Sir, the pirates on the coast of Barbary and Barataria, exercise both. They find a ship alone on the ocean; this is discovery. They capture her, and murder or enslave the crew; this is conquest. Both these rights are thus combined and consummated, and their validity will not, I presume, be questioned either by the courts of Barataria, or other bands of similar conquerors.

But even this miserable argument of conquest is not applicable to the Cherokees. They were not subjugated. The Southern Indians had sixteen thousand warriors with arms in their hands. They were powerful; their trade was war; they did not solicit peace. We sought for it, as appears by the resolutions of Congress, of May, 1783, and March, 1785. We obtained the treaty of Hopewell, in which gentlemen find the expressions, the “United States give peace” to the Indians, and “allot boundaries;” and, by a philological criticism upon the English terms which we used, they logically deduce the rights of conquest! What did the unlettered Indian understand by those expressions, but that there was to be an end of war, and that his territory was to be sacred? The treaty contains many reciprocal stipulations of the “contracting parties.” Will it still be contended that we are not bound by them, because the other party was conquered—in other words, because we were the strongest? If the United States made terms of peace, should they not abide by them? If a besieged town capitulates, are not the articles of capitulation obligatory? When Bonaparte dictated treaties of peace in the capitals of the nations which he had overrun, was he not morally bound to observe them? They, indeed, might complain that the



contract was made by constraint, when they were not free agents ; but who ever heard of the stronger party claiming to be absolved from his engagements, because the other was subject to his coercion ?

It has been repeatedly asked, why not leave the Indians to the legislation of the States ? I answer, because they protest against it, and they, alone, have the right to judge. They demand of us the protection which we solemnly promised.

Much has been said of their being untutored savages, as if that could dissolve our treaties ! No one pretends that they are less cultivated now than when those treaties were made. Indeed, it is certain that they have greatly advanced in civilization ; we see it in the very proofs introduced by the gentleman from Georgia to show their barbarism. He produced to the Senate a printed code of Cherokee laws, and a newspaper issued from a Cherokee press ! Is there another instance of such productions from any Indian nation ? I was surprised that, with all his scrutiny, he could find no more remnants of savage customs. I shall not dwell upon his selections from their laws. The first was, that, if a horse should be stolen, and the owner, finding the thief in possession, should immediately kill him, in the excess of passion, it should rest upon his own conscience. It is to be observed that the person slain must have been guilty ; and for such an offence life is now taken by the laws of England : But this provision, inserted in the Cherokee code more than twenty years ago, has yielded to further light, and been since repealed. Time will not permit me to dwell upon their advances in the arts of civilized life. It is known to have been great. They till the ground, manufacture for themselves, have workshops, a printing press, schools, churches, and a regularly organized Government. Indeed, the gentleman from Tennessee himself told us, that some individuals of that nation were qualified for a seat in this august assembly.

What danger, it is asked, have the Indians to apprehend from the laws of the State ? What danger ? Is it not here avowed that their presence is a nuisance, from which Georgia wishes to be relieved ? Has not her Legislature declared that she is determined to have their lands at all hazards, even by violence, in the last resort ? And, if left to her unrestrained power, can it be doubted that she will find the means of carrying that determination into effect ? If the laws heretofore enacted are not sufficient,



may not others be resorted to? Let us, for a moment, look at the measures already adopted, and see if they have not some adaptation to the accomplishment of her wishes.

By the Ninth Section of the Act of 1828, no Indian in the Creek or Cherokee nations can be a party or a witness in any suit to which a white man may be a party. It is said that this has been repealed by the statute of 1829. I think otherwise. The latter contains no repealing clause, nor any incompatible provisions. Both may well stand together, and both would be enforced according to the usual construction of statutes in *pari materia*. It is true, that a part of the title of the act is, to repeal that ninth section of the former. This is easily accounted for. The act, as first reported by the committee, probably contained a repealing clause, which was stricken out by the more zealous majority; the original title remaining unchanged.

But suppose that only the law of 1829 is now in force. What is to be its effect? All the laws, usages, and customs of the Cherokees are abrogated, and severe punishments denounced against those who shall presume to act under them. Their Government is dissolved—their political existence is at an end—their nation is destroyed—it is resolved into its original elements. We know that their lands are not holden by individual ownership; the title is in the nation. To annihilate the tribe, therefore, as a political community, is to destroy the owner; and the State is then to take the whole by her claim of succession. By this statute, no Cherokee, or descendant of a Cherokee, can be a witness against any white man, who does not reside within the “nation.” This devotes their property to the cupidity of their neighbors; it leaves them exposed to every outrage, which lawless passions can inflict. Even robbery and murder may be committed with impunity, at noonday, if not in the presence of such whites as will become prosecutors or witnesses.

This, the gentleman from Georgia asserts, creates no new disability; that Indians are not competent to testify, by the common law, either in England or in this country. That I deny. They are good witnesses in both, and have been so, without question, ever since the case of the Gentoo, in the time of Lord Mansfield. Several were recently admitted, by the courts of New York, in a very important question of title to real estate, near the Falls of Niagara; and I have myself seen a person convicted of larceny, to

a large amount, in the Supreme Court of Massachusetts, upon the testimony of an Indian.

But the gentleman assigned, as a reason for his assertion, that a belief in a future state of rewards and punishments was essential to their admissibility as witnesses. True, sir, and so it is with respect to all others. The objection is as valid against a white as a red man. If this act creates no new disability, why was it passed? Why not leave them to the provisions of the common law? But, sir, we learn, from an intelligent missionary, that there are a thousand members of Christian churches. These, and all other true believers, are excluded. Even those who are so distinguished for their knowledge, integrity, and ability, that the honorable Chairman would be willing himself to be represented by them in the Congress of the United States, are not permitted to testify in a court of justice.

Under these enactments, the Cherokees are aliens in their native land; trespassers upon their own soil; outlaws in the bosom of their own nation!

But why should I dwell upon the laws already passed, when the same power can, at will, produce others to effectuate their avowed determination? Who will pretend that the Indians can live under the legislation of the State? The head of the Bureau of Indian affairs, in a communication transmitted to Congress by the Secretary of War, declares that it will "seal their destruction, as admitted by their chiefs;" and the honorable chairman has frankly declared, in this debate, that it will reduce them to the last degree of wretchedness. His words were: "You cannot make a full-blooded Indian more miserable" than by such subjection; and, in his written opinion of 1824, he emphatically says, "If the protection of the United States is withdrawn," "the Cherokee nation cannot exist twelve months."

The question now proposed by this amendment is, Shall that protection be withdrawn, and the Indians be compelled to leave their country, under the penalty of certain destruction if they remain?

The interrogatory has been often repeated, Why should not Georgia extend her laws over the natives as well as other States?

Again, sir, I reply — our treaties — our treaties. The Indians object, and the United States have solemnly promised to interpose at their request. In no other instances have they opposed

State legislation, and demanded our interposition. This is a sufficient answer.

But this topic has been so much urged, and the effort has been so great to find shelter under the precedents of other States, that I will bestow upon them a moment's attention. That principally relied upon, and the only one specified, is a law of New York passed four or five years ago. The occasion was this. In one of the little reduced tribes, within that State, a female had been executed as a witch. The executioner was indicted in the State court before one judge, and convicted. The question of jurisdiction was carried to the Superior Court, who never came to a decision, but advised a pardoning act; whereupon this law was passed, which punishes certain high crimes committed within the tribe. Its sole object was the protection of the Indians, and it seemed to have been by their consent. They have never objected, much less claimed our interposition. Does this bear any analogy to the case of Georgia and the Cherokees? When another tribe, the Oneidas, formed a Constitution or Government similar to that of the Cherokees, did New York interfere to destroy it and dissolve the nation? Far otherwise; they protected them in its enjoyment. And such has been the general character of the legislation of other States. I shall not go back to the early days of colonial vassalage, although it is surprising that so little color of precedent is to be found, even when the weakness of infancy was struggling for existence against the power of the savages. I speak of the States, since they became such, under the confederation, or the Federal Constitution; and say that their general legislation has been — not over the Indians, and acting upon the individuals within the territory of their tribe; but protecting and preserving them as a distinct community — operating upon the whites, and restraining them from inflicting wrongs and injuries. The legislation of Georgia has thrown over them a net, which binds every limb in fetters, but is no shield of defence against assaults; whilst that of other States has erected around them a wall of defence, guarding them against encroachments.

This bill (said Mr. S.) provides for the removal of the Indians to distant regions beyond the Mississippi; and it is proposed to place no less than half a million of dollars in the hands of the Secretary of War for that purpose. The amendment, now under consideration, declares that they shall be protected, in the enjoy-

ment of their rights, until they shall choose to remove. The necessity for such a provision is apparent. Without it, they have no option. Without it, this bill will add to the pressure of the torrent that is sweeping them away.

Is it not known that acts for holding Indian treaties have been used as instruments of coercion? When our commissioners have met the chiefs in council, to obtain farther acquisition of territory, have they not sometimes asked only, what will you reserve? And when the answer has been, we have no lands to spare — we will cede nothing, this question is repeated, what will you reserve? Congress have passed a law for the purpose of obtaining a portion of your soil — the United States are strong — their arms now sleep in peace; beware how you arouse them from their slumbers!

Not only has terror been inspired, but other means have been resorted to, to cause the women to influence their husbands; the children to beseech their parents; the warriors to urge the chiefs; until their firmness is overcome. It is related of a venerable chief, that, yielding at last to this irresistible pressure, he signed the fatal parchment in tears; declaring, at the time, that it was the death-warrant of his nation.

Apprehending that our object is to obtain further cessions, the Indians have met us in council with fear and trembling. In one instance, five or six tribes being assembled, our commissioners announced to them that our only desire was to establish and preserve peace among themselves; that we asked for no lands; they instantly rent the air with acclamations of joy. No difficulties, no delays intervened, the treaties were accomplished at once.

Is it uncharitable to suppose that agents, to be appointed under the direction of those who are now concerned in our Indian affairs, may resort to force or terror? Sir, the officer now at the head of the Indian Bureau, in his official report of a treaty of cession, made by him with the Creeks, states the fact, that in two successive councils he met only a firm denial; and in the third, he says, one individual being most prominent in his opposition, it was not until he “broke him upon the spot,” that the treaty was obtained! Yes, sir, that officer avows that he “broke” one of the prominent chiefs in their own council, as the only means of accomplishing his purposes. And in an official communication sent to us by the Secretary of War, at the commencement of this session, the same



officer recommends that the Government should send an "armed force" to the Cherokee country, to further the objects of this bill, the removal of the natives. He says, indeed, that he would make a solemn declaration that the military were not to be used to compel them to leave their country; but only to give security to those that were willing to go. And would such a declaration, even if made, do away the effect of the presence of our bayonets? What is the avowed purpose? To protect, against their own Government and people, the individuals who may choose to emigrate; but not to afford any aid or countenance to those who may choose to remain. The chiefs may inquire — Will these soldiers give us protection against the power of Georgia, if she shall attempt to force her laws upon us? The reply must be — O, no, the President has decided that she has a right to govern you; and if you should resist, the United States are bound to assist her in the execution of her laws against all opposition. When the British minister remonstrated against the Emperor Alexander's annexing a part of Poland to his dominions, he replied: "I have three hundred thousand soldiers in that country." The argument was conclusive. If the Cherokees should hesitate, they might, in significant silence, be pointed to our glittering bayonets!

It is recommended to send an armed force to enable the Cherokees to deliberate freely! When the Roman orator appeared in defence of Milo, he found the forum surrounded by an armed force, accompanied, no doubt, by the declaration that it was only to preserve tranquillity. But even the tongue of Cicero was palsied by the formidable array, and his friend and client was abandoned to his fate. We know, sir, how the deliberations of the Parliament of Great Britain, and the National Conventions of France, have been aided by the presence of an armed force; and history abounds with similar examples.

I confess, sir, that I cannot but indulge fears of the use which may be made, by the War Department, of the half million of dollars, to be appropriated by this bill. We do know, that, in making Indian treaties, there have been instances of valuable reservations of lands, and large sums of money, being secretly given to individual chiefs, by confidential arrangements, to induce them to yield to our wishes, and betray the confidence reposed in them by their nation. Is it uncharitable to apprehend that such things may happen under the directions of the present Secretary of War?



Towards that high officer I have no feeling of unkindness. I seek no imputation upon his motives ; but his official acts I am bound, by the duties of my station, to examine. Look at the instructions given by him, in May last, to General Carroll, who was sent as an agent of the Government to induce the Cherokees to a removal. They express throughout much solicitude for the welfare of the Indians, and profess to consult their best interests. But I am constrained to look at the acts to be done—the course of conduct prescribed. He is directed not to meet the Cherokees in “General Council,” for “the consequence would be, what it has been, a firm refusal to acquiesce ; but to “appeal to the Chiefs and influential men—not together, but apart at their own houses : and to make offers to them of extensive reservations in fee simple and other rewards” to obtain “their acquiescence.” He is further told—“The more careful you are to secure from even the Chiefs the official character you bear, the better ;”—and again, “Go to them, not as a negotiator, but friend.” “Open to each a view of his danger.”—Again—“enlarge on their comparative degradation as a people, and the total impossibility of their ever attaining to higher privileges while they retain their present relations to a people who seek to get rid of them”—that their laws “will be superseded and trodden under foot.” Again, “enlarge upon the advantage of their condition in the West—there the General Government will protect them—improve them by instruction.” They would become our equals in privileges, civil and religious, and that, “by refusing to remove, they must, necessarily, entail destruction on their race.”

I cannot but remark the parallel, between the course here prescribed and that which expelled our first parents from Paradise.

When the arch-Tempter sought their removal, he assailed them “not together ;” but lest their joint “Council” should have baffled his arts ; but he found the feeblér woman “apart” from her husband, deprived of the aid of her natural adviser—and carefully concealing his “official character”—of Satanic majesty ; assuming the guise of a “friend ;” a kind instructor ; he told her, pursue the course which I advise, and the evils which have been predicted shall not follow ! “ye shall not surely die”—but you shall be enlightened and elevated—“your eyes shall be opened and ye shall be as gods, knowing good and evil.” She listened and yielded :

“Earth felt the wound, and nature from her seat,  
Sighing through all her works, gave signs of woe,  
That all was lost.”

She was made the instrument of seducing the man also. And both were driven from the garden of Eden, where the Creator had placed them, to the unsubdued wilderness of the world—and a flaming sword forever barred their return.

The adoption of such measures, is in the language of the military Secretary, to “move upon them in the line of their prejudices.” And upon whom is it that we thus move?—Those whom we have most solemnly promised to protect as faithful guardians; whom we have called brothers; whom we have taught to look up to the President, as their great father. Yes, we have endeavored to obtain over them the influence of a parent; but do we perform towards them the duties of that sacred relation?

It is said we must resort to such measures; they are unavoidable. The plea of State necessity is advanced. And is this great country, with peace in all its borders, now controlled by an irresistible power, that knows no rule, and consults no law? Does this measure wear the garb of State necessity? That, sir, is a high-handed tyrant, not a smooth-tongue seducer. It is a lion, seizing its prey with open and resistless strength—not a serpent winding its sinuous way in secret to its victim.

Without the adoption of this amendment, the Cherokees have no choice, but between the miseries of emigration, and destruction where they are. It is contended that it is for the best interest to remove. Leave that, sir, to their own decision. Our judgment may be too much guided by our own convenience. We undertook to judge for the Seminoles in Florida. We asked for their fertile lands, they objected, asserting that the residue would not support existence. We persisted; and found means at last to obtain a reluctant cession. They departed in the deepest sorrow from their homes of comfort and plenty, to encounter want and misery upon a barren waste. Nineteen-twentieths of the territory which we left to them, consisted of sands where no verdure quickened—and of swamps upon which human life could not be sustained. The dreary description officially given by Governor Duval can hardly be exceeded. The consequence was, what the Seminoles foresaw, want, suffering, and starvation. The government was forthwith compelled to give twenty thousand dollars for food to preserve life, and to retrocede a portion of their territory.

Whither are the Cherokees to go? What are the benefits of the change? What system has been matured for their security?

What laws for their government? These questions are answered only by gilded promises in general terms; they are to become enlightened and civilized husbandmen.

They now live by the cultivation of the soil and the mechanic arts. It is proposed to send them from their cotton fields, their farms and their gardens, to a distant and an unsubdued wilderness—to make them tillers of the earth!—to move them from their looms, their work-shops, their printing-press, their schools and churches, near the white settlements; to frowning forests, surrounded with naked savages—that they may become enlightened and civilized! We have pledged to them our protection—and, instead of shielding them where they now are, within our reach, under our own arm, we send these natives of a southern clime to northern regions, amongst fierce and warlike barbarians. And what security do we propose to them? A new guarantee!! Who can look an Indian in the face, and say to him, we and our fathers, for more than forty years, have made to you the most solemn promises; we now violate and trample upon them all; but offer you in their stead—another guarantee!!

Will they be in no danger of attack from the primitive inhabitants of the regions to which they emigrate? How can it be otherwise? The official documents show us the fact, that some of the few, who have already gone, were involved in conflicts with the native tribes, and compelled to a second removal.

How are they to subsist? Has not that country now as great an Indian population as it can sustain? What has become of the original occupants? Have we not already caused accessions to their numbers, and been compressing them more and more? Is not the consequence inevitable, that some must be stinted in the means of subsistence? Here, too, we have the light of experience. By an official communication from Governor Clark, the Superintendent of Indian affairs, we learn that the most powerful tribes, west of the Mississippi, are, every year, so distressed by famine, that many die for want of food. The scenes of their suffering are hardly exceeded by the sieges of Jerusalem and Samaria. There, might be seen the miserable mother, in all the tortures which hunger can inflict, giving her last morsel for the sustenance of her child, and then fainting, sinking, and actually dying of starvation! And the orphan! no one can spare it food, it is put alive into the grave of the parent, which thus closes over

the quick and the dead! And this, not in a solitary instance only, but repeatedly and frequently. "The living child is often buried with the dead mother."\*

I am aware (said Mr. S.) that their white neighbors desire the absence of the Indians; and if they can find safety and subsistence beyond the Mississippi, I should rejoice exceedingly at their removal, because it would relieve the States of their presence. I would do much to effect a consummation so devoutly to be wished. But let it be by their own free choice, unawed by fear, unseduced by bribes. Let us not compel them, by withdrawing the protection which we have pledged. Theirs must be the pain of departure, and the hazard of the change. They are men, and have the feelings and attachments of men; and if all the ties which bind them to their country and their homes are to be rent asunder, let it be by their own free hand. If they are to leave forever the streams in which they have drank, and the trees under which they have reclined; if the fires are never more to be lighted up in the council house of their chiefs, and must be quenched forever upon the domestic hearth, by the tears of the inmates, who have there joined the nuptial feast, and the funeral wail — if they are to look for the last time upon the land of their birth, which drank up the blood of their fathers, shed in its defence, and is mingled with the sacred dust of children and friends, to turn their aching vision to distant regions enveloped in darkness, and surrounded by dangers, let it be by their own free choice, not by coercion or the withdrawal of the protection of our plighted faith. They can best appreciate the dangers and difficulties which beset their path. It is their fate which is impending; and it is their right to judge, while we have no warrant to falsify our promise.

\* Extract from an official Report of Governor Clark, Superintendent of Indian Affairs, dated March 1, 1826.

"The condition of many tribes west of the Mississippi, is the most pitiable that can be imagined. During several seasons, in every year, they are distressed by famine, in which many die for want of food, and, during which, the living child is often buried with the dead mother, because no one can spare it as much food as would sustain it through its helpless infancy. This description applies to Sioux, Osages, and many others, but I mention those because they are powerful tribes, and live near our borders, and my official station enables me to know the exact truth. It is in vain to talk to people in this condition about learning and religion."



It is said that their existence cannot be preserved ; that it is the doom of Providence that they must perish. So, indeed, must we all ; but let it be in the course of Nature, not by the hand of violence. If, in truth, they are now in the decrepitude of age, let us permit them to live out all their days, and die in peace ; not bring down their grey hairs in blood to a foreign grave.

I know, sir, to what I expose myself. To feel any solicitude for the fate of the Indians may be ridiculed as false philanthropy and morbid sensibility. Others may boldly say, “ Their blood be upon us ; ” and sneer at scruples, as a weakness unbecoming the stern character of a politician. If, sir, in order to become such, it be necessary to divest the mind of the principles of good faith and moral obligation, and harden the heart against every touch of humanity, I confess that I am not, and, by the blessing of Heaven, will never be—a politician.

Sir, we cannot wholly silence the monitor within. It may not be heard amidst the clashings of the arena, in the tempest and convulsions of political contentions ; but its “ still small voice ” will speak to us, when we meditate alone at eventide—in the silent watches of the night, when we lie down, and when we rise up from a solitary pillow, and, in that dread hour, when, “ not what we have done for ourselves, but what we have done for others,” will be our joy and our strength ; when—to have secured, even to the poor and despised Indian, a spot of earth upon which to rest his aching head—to have given him but a cup of cold water, in charity, will be a greater treasure than to have been the conquerors of kingdoms, and lived in luxury upon their spoils.



## THE TARIFF.



## THE TARIFF.

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IN SENATE, MARCH 22, 1832.

RESOLUTIONS offered by Mr. Clay, declaring that certain duties ought to be abolished, and others reduced, being under consideration, Mr. Sprague spoke as follows :

MR. PRESIDENT : I had not intended to participate in the discussion of this resolution, and should have persevered in my determination to give a silent vote, had I not yesterday received certain resolutions of the Legislature of Maine in relation to the Tariff, which render it proper that I should submit a few remarks.

When we enter these walls, we take a solemn oath, as representatives of the people, binding upon our consciences individually ; it is to support the Constitution of the United States ; and our duties under it have reference to the whole Union. Every representative of the people here, duly impressed with the responsibilities of his station, must receive the instructions of other representatives of the people, in the State Legislature, with deferential respect, and a sincere desire to act in accordance with them. If, unfortunately, this should conflict with his previous opinions, he should, with singleness of heart, and with care and deliberation, re-examine and re-consider the subject, with the hope of arriving at a harmonious result, and nothing but his deliberate convictions of public duty should ever induce him to decline a literal conformity with such expressions of legislative opinion. But yet he may be constrained to do so by the highest obligations to the whole people, and the most sacred moral duty.

On the present occasion, I have the satisfaction to believe that I shall be able to concur in the substance, if not in the form, of these resolutions.

Their substantial object appears to be :

1. To reduce the revenue from imposts to the proper expenditures of Government.

2. So to adjust the duties as to benefit the laboring classes.

And

3. To modify the tariff law of 1828.

#### REVENUE AND PROTECTION.

As to the first, I have long been, and am still, decidedly in favor of a reduction of duties. Years since, as a member of the finance committee of the other house, I exerted myself to accomplish it, in relation to some of the most important articles contemplated by the resolution of the member from Kentucky, (Mr. Clay.)

It seems now to be generally agreed that the revenue ought to be diminished. But how? In what manner? That is the question.

On the one side, we have the resolution of the member from Kentucky, (Mr. Clay,) and, on the other, the proposition of the senator from South Carolina, (Mr. Hayne.) The former preserves the protective principle, and proposes legislation with a view to aid domestic industry and American products; the latter discards and rejects such protection, as no legitimate object of any system of imports, denouncing it as utterly unconstitutional.

It is now even insisted that, in imposing duties primarily for revenue, we have no right to have any regard to their incidental effect in encouraging domestic manufactures, which, until recently, has never been denied.

I shall not go at large into the constitutional question, but suggest a few considerations :

The right to lay imposts, and to regulate commerce with foreign nations, is given in express, unequivocal terms. The letter of the Constitution clearly confers the power to vary imposts and commercial regulations at pleasure. But it is insisted that it was never within the contemplation of the framers of the Constitution, that the power thus conferred was to be used for the purpose of

aiding or protecting any occupation or branch of industry in our country ; and that such exercise of it is, therefore, against its original spirit and intention.

The history of the times, anterior and subsequent to the adoption of the Constitution, shows this assertion to be utterly groundless.

After Great Britain had acknowledged our independence, she put in full force against us the system of protection and inhibition, by which our ships were to be excluded from her ports, while British vessels were freely admitted to ours ; and we were to purchase her manufactures, of all kinds, while she, in effect, prohibited the greater portion of our productions, receiving such only as were of indispensable necessity to her prosperity. Thus, after as before the revolution, the rich streams of our industry were to be directed into British channels, to exhaust our resources, and swell her wealth. She had, indeed, ceased hostilities by arms, but she substituted a war upon our trade, by restrictions and commercial regulations. Against this species of attack, the United States were defenceless. The Confederation had no power to impose duties or regulate commerce ; and could not, therefore, counteract the deadly influence of foreign legislation. Several of the States, Massachusetts, New Hampshire, Pennsylvania, and others, attempted to protect themselves by acts of their own Legislatures ; but they were rendered nugatory by the omission of neighboring States to coöperate in one system. Massachusetts, for example, imposed restrictive duties upon the productions of foreign nations ; but, while they were received freely into all the ports of Rhode Island and Connecticut, her imposts were wholly inefficacious. It was soon perceived that, to defend ourselves successfully against this insidious hostility to our trade and industry, we must have recourse to the same means which had been so triumphant against the assaults of open force—the creation of a common power to bring into exercise the concerted and united energies of all the States, and, by an uniform system, to meet adverse legislation by counter legislation, to oppose restriction to restriction, and interdict to interdict. The first idea was to invest the Confederation with this power, and measures were taken with this view ; but it was soon perceived that additional strength, for other important purposes, was also necessary ; and, instead of attempting a mere amendment of the articles of confederation, a new and



General Government was established, with enlarged powers. A primary, if not the principal cause, which conduced to the formation of our present Constitution, was this very purpose of giving efficient protection to our own citizens in the pursuits of their industry, against the unfriendly and injurious restrictions of foreign nations. And, pursuant to this design, the first Congress of the United States, immediately upon the organization of the new Government, framed laws, with express and avowed reference to the advancement and protection of American products and pursuits; and those acts, or others having in view the same object, have been in full operation from that time to the present moment.

The positions which I have assumed, and the sketch now presented, are fully sustained by the documentary history of the early ages of the Republic. I shall offer to the Senate but a small part of the abundant evidence which might be adduced.

The attempts of Massachusetts to counteract the destructive effects of foreign discriminations having been defeated by the non-concurrence of the other States, many of her citizens presented a petition to the Continental Congress, at the head of which was the signature of John Hancock, that glorious name which, in bold and commanding characters, was the first affixed to the Declaration of American Independence, and which will ever be held in grateful and reverential remembrance by the friends of liberty throughout the world. That memorial breathed the following language :

“Your petitioners observe, that the ships and commodities of that nation, whose insidious conduct has long been the object of our peculiar jealousy, are received in our ports under the same advantages with our own, while our navigation, in return, is discouraged by every possible embarrassment : and our exports, on their part, are either prohibited, or, if admitted to their ports, are loaded with the most rigorous exactions. In proof of our assertions, we need only point the attention of Congress to the enormous duty on our rice, oil, and tobacco ; to the principle and spirit of their navigation laws ; or to a bill lately agitated in the British Parliament, which now, most probably, has the sanction of a law, for the support and encouragement of their American fishery, to the direct prejudice of ours, and is intended to derive that benefit from these States which, in our apprehension, and on their principles, ought only to be permitted in our own bottoms.

“Impressed with these ideas, your petitioners beg leave to request of the very august body which they now have the honor to address, that the numerous impositions of the British on the trade and exports of these

States, may be forthwith contravened by similar expedients on our part; else, may it please your excellency and honors, the commerce of this country, and of consequence its wealth, power, and perhaps the Union itself, may become victims to the artifice of a nation, whose arms have been in vain exerted to accomplish the ruin of America.”

The Legislature of Pennsylvania, near the same period, passed the following Resolutions, in consequence of petitions from the citizens of that State :

“ *Resolved*, That it is the opinion of this House, that the privilege in the degree hitherto retained by the States individually, of controlling and regulating their own trade, is no longer compatible with the general interest and welfare of the United States; reason and experience clearly evincing, that such privilege is productive of mutual inconveniences, and injurious among ourselves; and that the systems of several nations, by which our merchants are excluded from the most beneficial branches of commerce, whilst the whole of ours is laid open to them, cannot be consistently or effectually counteracted, but by a unity of councils in the great representative body of the United States.

“ *Resolved*, therefore, That Congress be requested to devise such a system of commercial powers, as they ought necessarily to be invested with, to be recommended to the States; and that Congress be assured of finding the most suitable disposition on the part of Pennsylvania to comply therewith.”

In 1784, Congress adopted the report of a Committee holding the following language, with reference to the hostile legislation of the British Government :

“ It would be the duty of Congress, as it is their wish, to meet the attempts of Great Britain with similar restrictions on her commerce; but their powers on this head are not explicit, and propositions made by the Legislature of the several States, render it necessary to take the general sense of the Union on this subject.

“ Unless the United States in Congress assembled shall be vested with powers, competent to the protection of commerce, they can never command reciprocal advantages in trade; and, without these, our foreign commerce must decline and eventually be annihilated. Hence it is necessary, that the States should be explicit, and fix on some effectual mode by which foreign commerce, not founded on principles of equality, may be restrained.”

And subsequently, in July, 1785, a report was made by another Committee of the Continental Congress, of which Mr. Monroe

was chairman, recommending, that the Articles of Confederation be so amended as to confer additional strength ; and that a letter be addressed to the Legislatures of the several States, showing the principles upon which the alterations were proposed. The following is an extract from the epistle thus recommended :

“The common principle upon which a friendly commercial intercourse is conducted between independent nations, is, that of reciprocal advantages ; and, if this is not obtained, it becomes the duty of the losing party to make such farther regulations, consistently with the faith of treaties, as will remedy the evil and secure its interests. If, then, the commercial regulations of any foreign power contravene the interests of any particular State, if they refuse admittance to its produce into its ports, upon the same terms that the State admits its manufactures here, what course will it take to remedy the evil ? If it makes similar regulations to counteract those of that power, by reciprocating the disadvantages which it feels, by imposts or otherwise, will it produce the desired effect ? What operation will it have upon the neighboring States ? Will they enter into similar regulations, and make it common cause ? On the contrary, will they not, in pursuit of the same local policy, avail themselves of this circumstance, to turn it to their particular advantage ? Thus, then, we behold the several States taking separate measures in pursuit of their particular interests in opposition to the regulations of foreign powers, and separately aiding those powers to defeat the regulations of each other—for, unless the States act together, there is no plan of policy into which they can separately enter, which they will not be separately interested to defeat, and of course all their measures must prove vain and abortive.”

The palpable necessity of strengthening the Confederation led to various discussions, propositions and resolutions, which resulted in the establishment of our present Constitution. The new government was to have been organized on the fourth of March, 1789 ; but a quorum of both branches of the National Legislature did not assemble until the sixth day of April. The first petition presented to the House was on Saturday, the eleventh of that month, “from the tradesmen, manufacturers, and others, of the town of Baltimore, in the State of Maryland—praying an imposition of such duties on all foreign articles which can be made in America, as will give a just and decided preference to the labors of the petitioners ;” “and that there may be granted to them, in common with other manufacturers and mechanics of the United States, such relief as, in the wisdom of Congress, may appear proper.”

It was referred to a Committee of the Whole, into which the House was immediately resolved, and their report, in the following language, was forthwith adopted :

*“ Resolved, That it is the opinion of this committee, that an act ought to pass for regulating the collection of imposts and tonage in the United States.”*

*“ Ordered, That a bill or bills be brought in pursuant to the said resolution.”*

The second petition to the House, and which was presented on the Monday following, was from the shipwrights of the city of Charleston, in the State of South Carolina—praying for “such measures, in a general regulation of trade and the establishment of a proper navigation, as will tend to relieve the particular distresses of the petitioners, and, in common with them, those of their fellow shipwrights throughout the United States.”

The first act passed by Congress was to regulate the administering of the oaths necessary to the constitutional organization of the government. The second was to impose duties upon foreign goods. It contained the following preamble :

*“ Whereas, it is necessary for the support of Government, for the discharge of the debts of the United States, and the encouragement and protection of manufactures, that duties be laid on goods, wares, and merchandises, imported.”*

It contained a discrimination in favor of importations in American bottoms.

The next, being the third act of the first Congress, was also passed, with the most unequivocal reference to the protection of American industry. It imposed a tonnage duty of fifty cents upon foreign vessels, and six cents only upon our own.

Mr. Madison has been justly denominated the great constitutional lawyer of this country ; and perhaps no man was ever more profoundly versed in the principles, or thoroughly imbued with the spirit, of the Constitution ; and, in its construction, no name, except that of Washington himself, would carry a more preponderating influence. He was a member of the first Congress, and a most zealous and efficient advocate of the measures of protection, speaking with glowing indignation of the restrictive policy of Great Britain, and in strong and energetic terms of the right and duty of



this Government to counteract it, and declaring that the Constitution was formed for that purpose. The following is an extract from one of his speeches :

“ We have now the power to avail ourselves of our national superiority, and I am for beginning with some manifestation of that ability, that foreign nations may be taught to pay us that respect which they have neglected on account of our imbecility. This language, and these sentiments, are the language and sentiments of our constituents; the great political revolution now brought about by the organization of the new Government, has its foundation in these sentiments. Sensible of the selfish policy which actuated a nation long disposed to do all she could to discourage our commercial operations, the States singly attempted to counteract her nefarious schemes; but, finding their separate exertions ineffectual, with a united voice they called for a new arrangement, constituted to concentrate, conduct, and point their powers, so as to obtain that reciprocity which justice demands. The arrangement has taken place; and though gentlemen may contend, that we are not at this moment prepared to use it in the latitude I could wish, yet let them concur in doing what shall indicate, that, on a proper occasion, we dare exert ourselves in defeating any measure which commercial policy shall offer, hostile to the welfare of America.”

On the seventh of May, 1789, he uttered the following language :

“ I am amazed, sir, when I consider how, in consequence of her regulations, the whole proceeds of American shipments are drawn into the vortex of the British treasury. Sir, this preponderation ought not to be. It is in our power to effect an alteration. The productions of our country are more necessary to Great Britain, and the rest of the world, than those of the world at large, or the manufactures of Great Britain, are to us.”

How could he have expressed himself more clearly and strongly as to any purpose in the formation of the new government and the consequent duty of its members?

President Washington, in his Address to both branches of Congress, in January, 1790, recommended agriculture, commerce and manufactures to their attention. The House of Representatives “ Ordered, that it be referred to the Secretary of the Treasury to prepare a report to this House, a proper plan or plans, conformably to the recommendation of the President of the United States in his Speech to both Houses of Congress, for the encouragement



and promotion of such manufactures as will tend to render the United States independent of other nations for essential, particularly for military, supplies." In obedience to which, General Hamilton, then Secretary of the Treasury, a member of the cabinet under the eye of Washington himself, prepared and presented to Congress his celebrated and elaborate report upon the subject of manufactures, recommending, by strong facts and unanswered reasoning, their encouragement by national legislation.

In obedience to a resolution of the House of Representatives of February, 1791, Mr. Jefferson, then Secretary of State, made his able and admirable report upon the commerce of the United States, in which he decidedly recommends the system of counteracting protection. In one place he expresses himself thus :

"But should any nation, contrary to our wishes, suppose it may better find its advantage by continuing its system of prohibitions, duties and regulations, it behoves us to protect our citizens, their commerce and navigation, by counter prohibitions, duties, and regulations, also. Free commerce and navigation are not to be given in exchange for restrictions and vexations ; nor are they likely to produce a relaxation of them."

Again :

"1. Where a nation imposes high duties on our productions, or prohibits them altogether, it may be proper for us to do the same by theirs ; first burdening or excluding those productions which they bring here, in competition with our own of the same kind ; selecting next, such manufactures as we take from them in greatest quantity, and which at the same time we could the soonest furnish to ourselves, or obtain from other countries ; imposing on them duties, lighter at first, but heavier and heavier afterwards, as other channels of supply open," etc.

Sir, I might heap authority upon authority, and extract upon extract, until I should fatigue the Senate. Our whole legislative history abounds with them. The framers of the Constitution, its cotemporaneous expositors, those who were earliest called upon to execute its provisions, the preëminent statesmen of the earliest days of the Republic, never, for a moment, doubted that it contained this fostering and protective power for the advancement of American industry. Indeed, it was known, felt and avowed, that this was one of the great leading objects of its creation, which it was the solemn duty of Congress to keep constantly in view, and which they could never neglect and be innocent.

The States had, by the First Article of the Constitution, expressly divested themselves of the right to protect their own products by imposts upon foreign importations. No one even now contends that the States individually have this power. They did possess it before, under the Confederation. Why did they renounce it? Can any man seriously deny, that it was in order that it might be vested in the General Government, to be more efficaciously exercised? The war of commercial restrictions, waged by Great Britain, was severely felt by many of the States. They found themselves incapable of effectual resistance, by repeated efforts, and therefore concentrated all their powers in the General Government; and now, shall that Government, having become the depository of all their arms, and their whole means of defence, leave them, naked and unarmed, exposed to the attacks of their enemies? Is there not the same necessity now for resisting the commercial hostility of Great Britain that there was in 1789? Is not her system of restrictions and prohibitions in full and vigorous operation? Will she receive a single article from us that she can dispense with? Will she admit into her ports any of the staples of the Northern, Middle, or Western States?—our corn or grain, our beef or pork, our fish or lumber—any of our vegetable or animal food, the produce of the seas, the forest, or the soil? We know that she will not. And can it be believed that, while this hostile system continues, on the part of foreign nations, to counteract which was a special and prominent object of the formation of our Constitution, that this Government is to be preserved by abandoning those measures of defence which have been in operation, with such wonderful success, from the dawn of its existence; that the States, who have bound themselves for the express purpose of common, united protection, under the broad and ample shields of the Union, will now permit thategis to be withdrawn, themselves to be divested of their panoply of defence, and that the ligaments which bind their limbs from separate action shall still continue in all their tension?

Sir, we always have had, and, so long as other nations shall persevere in their present policy, we must have, some system of protection for our industry. The true question is, what it shall be, and to what extent it shall be carried.

And this problem, the adjustment of a Tariff, is one of almost infinite and inconceivable difficulty. It involves the most pro-

found principles of political economy, the most comprehensive views of civilized society, the most extended knowledge of the productions of nature, and the minutest details of the diversified and multitudinous occupations of mankind.

I consider the resolution now before us as substantially involving only the question of protection or no protection—tariff, or no tariff; and that the mode and manner is to be discussed and decided when proper bills shall be introduced. In this aspect of the subject, therefore, I shall ask your attention only to a few general principles.

#### BENEFITING THE LABORING CLASS.

In any and every adjustment of the tariff, we should exercise a primary regard to the interests of the laboring class of the community. We must all feel and know our obligations to, and dependence upon, them. There is not a member of either house of Congress from the North, who does not owe his seat here to that body of men, and to them is his highest responsibility. We are emphatically the representatives of labor, and should never, for a moment, be unmindful of our solemn duty to aid and advance its interest. But in what manner is this desirable end to be attained? That is the problem, in political science, which we are called upon to solve.

The first, all-important means is to furnish employment. The next is, to make labor as productive as practicable.

The object of a tariff should be :

1. To give employment to those who would otherwise be without it.

2. To make labor more productive and more profitable.

The law which accomplishes this is beneficial.

On the other hand, any system, or want of system, which throws out of employment those who would otherwise be occupied, or changes labor from the more profitable to the less productive branches, is so far injurious.

I say, sir, that the primary and most important of all means of benefiting the laboring class, and, indeed, every class of the community, is to furnish them with employment; presenting opportunities and inducements to free, voluntary, constant, productive occupation. Your legislation should say to the people, "Be employed; profitably, if you can; but be honestly employed."

If I were asked, what was the first, second, and third requisites to the permanent prosperity and happiness of an individual or a community, I should answer, Labor—labor—labor.

In this we have discovered what the alchymists of old so long sought for in vain as the grand *desiderata* of human existence, the philosopher's stone, which converts dust into gold, and the elixir vitæ, which confers perpetual health.

It is the fountain of wealth, sending forth streams perennial and innumerable, whose incessant flow confers unmeasured blessings. Its fruits are constantly consumed and constantly reproduced. Let human labor stand still, and how long would its present accumulations sustain human existence? They would expire, like the unfed lamp; vanish, like the mists of the morning.

*Labor is the best measure of exchangeable value.* A want of due regard to this important truth, has occasioned infinite perplexity and confusion in speeches and writings upon the Tariff. In order to determine its merits or demerits, they inquire whether the price of its objects has been increased or diminished. On the one side, is selected a class of articles, the price of which is, undoubtedly, increased by the imposts; and, on the other, a list of products which are, in no degree, affected by the duties in the statute book. From the one set of examples, it is vehemently insisted, that imposts always enhance the price, and from the other as confidently, that they never have that effect. Such reasoners, starting from different premises, and diverging as they progress in their course, can never come at any common conclusion.

In order to ascertain whether the tariff laws are beneficial or injurious, they inquire whether they do or do not increase the price of articles, and to this devote all their energies, as if the answer were decisive of the primary question. But the response, if it were given, would not be conclusive, because the price about which they dispute, is measured by money, that is, the precious metals—no permanent standard—but themselves, measured by something else.

Why is gold more highly appreciated than iron? Not for its comparative utility; not on account of the necessary and useful purposes to which it can be applied; for, if mankind were to be wholly deprived of one of those metals, they had better, by a thousand times, dispense with the former than the latter. But it



is because, both being desirable, the difficulty, the labor, of obtaining the one is so much greater than that of procuring the other. If mines of gold and silver should suddenly be discovered, rendering them as abundant, and produced with as little labor as iron, they would be even less valuable than that common metal. One consequence would be, that a debtor—that is, he who had promised to deliver another a certain quantity of gold or silver, would be able to procure it and discharge his debt, with far less labor than before ; while the creditor, whose wealth consisted in the obligations of others to deliver him these metals, would find himself reduced to comparative poverty.

The light of day bears no price, has no exchangeable value. Why ?—because it is the free, inexhaustible, glorious gift of all-bountiful Heaven, requiring no labor of man. But let the sun descend below the horizon—let the darkness of night envelope us, and then we are ready to purchase at a price, the dim and feeble rays of artificial light, and to pay therefor, in proportion to the labor requisite to obtain the oil, or other material, by which it must be sustained.

Labor, then, is the best measure of exchangeable value, and the best standard by which to determine the benefits or the evils of a tariff system ; price, in its usual acceptation, having reference to that fallacious standard—money. A course of legislation which diminishes the price of articles, may be injurious to the people, while one that increases it may be beneficial ; and, on the other hand, a law which diminishes price may benefit, and one which increases it injure, the public.

Thus, if you diminish the price of the articles which a farmer or mechanic wishes to procure, but, at the same time, depress still more, the commodities which he has to give in exchange, you injure him ; while, if you enhance the price of those things, which he purchases, but, by the same act, increase still more, that of the articles which he is to give in return, you confer a benefit.

It should be known and remembered, that the great all-pervading article to be given in exchange, is human labor, in its various forms, modifications, fruits, and products. What are the means by which the great body of mechanics, farmers, artisans, and workmen of all kinds, are to procure the necessities and comforts of life—their labor or its products—the operation and effects of skill and strength. Let their whole labor cease, and distress, ruin,



destruction, overwhelms them, and the whole community, at once.

For what object is labor performed?—is it not to procure the comforts and conveniences of life? Money is to be desired only as the means, but not as the paramount end.

With reference to this subject, therefore, that system of legislation is best, which gives to labor the greatest amount of comforts and conveniences. This is a cardinal principle, which should be kept constantly in view—a polar star to guide our course through this pathless, boundless, stormy, tumultuous ocean—of the Tariff.

If a law shall tend to increase the price of articles of consumption, still, if, in my deliberate judgment, it will enhance the price of labor, still more, I shall not hesitate to adopt it; while, on the other hand, if it shall diminish the price of that which is to be purchased—but depress, in a greater degree, the labor by which they are to be procured, I shall certainly resist it.

It has been said, that, if the mechanic and farmer were asked to pay the increase of price, by reason of the duty, separately, they would object. That, sir, depends wholly upon the form of the question. If, when the latter is about to purchase a pair of boots, he is asked, Are you willing to pay fifty cents additional for the duty? he would, doubtless, answer, No: but if he were asked, Are you willing to pay that amount, if you can thereby obtain a dollar more, for the hat, which you must, directly or indirectly, give in exchange? his answer would be in the affirmative. The farmer wishes to procure cloth—he takes his wheat or wool to market. Are you willing to pay five cents a yard as duty? No. But, suppose you can thereby obtain ten cents more for the quantity of grain, or wool, necessary to purchase the yard, will you then consent? Certainly. So of every other article. The true question is, In what manner will the products of his labor procure most of the commodities which he wishes to obtain in exchange for it?

Discussions of the principles of political economy, have generally had reference to the body politic as a unit—to one homogeneous community. But the American statesman is ever to bear in mind, that ours is not a consolidated empire; that the states are modified sovereignties, with diversified interests and sacred rights. This is one of the elements essential to any correct judgment of a tariff system, and aggravates, not a little, the inherent difficulties of this most difficult subject.

The complaints which we have heard, and still hear, from an important section of the Union, are entitled to the most respectful consideration, and profound attention.

Although their pictures of distress may be overcharged with sombre coloring, yet, coming from such sources, we are bound to receive them as evidence, at least, of comparative depression. But when they attribute this exclusively to national legislation, we are to examine and inquire whether there may not be some other and more efficacious cause. And such, I believe, will be found in the character of their laboring population—the existence of slavery. For, whenever, in any part of the world, we find this evil, we find the community in which it exists, comparatively stationary and depressed. Is it not eminently so with many of the West India islands ?

It has been matter of surprise with our brethren of the South, that their cries of danger and distress have not produced more evident impression upon us, of the North. Permit me to suggest one or two reasons for this, our apparent want of excitability.

One is to be found in their having, too often, made the institution of slavery a means of combination, for political objects, against the free States. With that institution, the North have carefully abstained from all interference. They have left it, where the Constitution places it, in the exclusive custody of the States where it exists. Upon this exciting and absorbing subject, they have exercised uniform and wonderful forbearance. And yet, notwithstanding all this, it is believed, that when it has been deemed expedient to arouse all hearts and unite all hands in the slave States, for political purposes, the cry has been raised, that the North—the North—are attempting to emancipate our slaves—are scattering the firebrands of a servile war—that massacre and conflagration may sweep over the land !

The tocsin thus sounded, the alarum bells thus rung, have had their effect, which the North have felt and known to be unjust. The consequence is natural, that when any outcry is raised upon another topic, they should give somewhat less heed to it at first than they otherwise would have done.

Another reason is to be found in the course pursued in relation to this same matter, of the more recent tariff laws. After the late war, New England was no favorite with the majority of the nation. Possessing, as it was supposed, more than her proportion

of disposable capital, and, from the density and character of her population, the most efficient means of carrying on hostilities, she had not come forward, in the manner, which I have thought, and still most sincerely think, she ought to have done, in support of the national government. For this, she was, undoubtedly, in bad odor here; and when the tariff law came to be revised, her wishes were by no means especially consulted. She had grown rich, as it was supposed, by commerce; it was thought best to give new encouragement to manufactures; and if the effect should be to diffuse her wealth over other portions of the country, which had devoted their means in a more patriotic manner during the last conflict, it was a consequence, at least, not to be deprecated. She raised her voice against the proposed modifications of the protective system, and, up to the year 1825, she was, upon this subject, in perfect harmony with the South.\*

The bill of 1824 was adverse to her wishes, and encountered the decided opposition of her representatives. It passed. It became the law of the land. It was your desire that the course of industry should, in some measure, be changed, that a greater amount of capital should be invested in manufactures. What was she to do? What did she do? Resist? No, sir, she bowed in submission to your decision, and conformed to the course of national legislation. She changed the investments of her capital; she entered upon new paths of labor; she encountered great hazard and sustained severe losses from want of skill and experience in establishing new branches of industry, beneficial to the whole country. And now, when the first obstacles have been surmounted, and her citizens are about to receive some return for their vast sacrifices and unremitting exertions, they are called upon for another and still greater change; their establishments are to be raised to their foundations; the sound of the loom and the hammer are to cease; new investments are to be made; new arts acquired; new employments sought. And, because they do not readily assent to such propositions, denunciations, loud and long, are poured upon their devoted heads. Passing by the whole West, and quite over the great States of Pennsylvania and New York—the fathers and fosterers of the present Tariff—all their curses, for

\* In that year, a citizen of New England was elected President; and opposition to his administration immediately commenced.

this, to them, accursed thing, seem to be concentrated upon New England. It is against the North-East—New England alone, that the outcry is raised, and the feelings of indignation and resentment aroused.\* Even the gentleman from South Carolina, (Mr. Hayne,) in invoking conciliation and relief to the South, confined his appeal to the Middle States. Is it surprising that such complaints, mingled with such injustice, and made, not always, in a tone of remonstrance or conciliation, but too often in that of menace and contumely, should not find immediate favor, and an instant and kind response? Sir, we are men, and have the feelings incident to humanity; and, if we do not speak as loudly, we feel as deeply, and act as firmly, as others. The language of each portion of this Union to every other, should be that of kindness, conciliation, and fraternal regard. By compromise was the Government formed, by mutual concession only, can it be preserved. There is much danger that a different style of address may produce too great a reaction. Against such effects, I have sedulously endeavored to guard my own breast, and have endeavored to divest myself of all influences, but such as ought to pervade a member of the American Senate, placed here to consult the rights, the interests, and the permanent happiness of the whole country.

#### TARIFF OF 1828.

I was opposed to the Tariff Bill of 1828; and, as a member of the other branch, raised my voice and gave my vote against it. It came here, was materially amended, and returned to the House of Representatives. Still, it did not meet my approbation, and I resisted its final passage. It prevailed, and became a law. As I then said, the question of a repeal, the prostration of a system, is a very different one from that of its original enactment. If I had been asked whether I would consent to the laws passed for the erection of this vast and costly edifice, I should have answered in the negative. But shall I therefore assent to a proposition to demolish this splendid structure, and level it with the dust?

But notwithstanding this difference in the state of the question, I am decidedly in favor of a modification—a change—of the tariff

\* The speech of Mr. Tyler, of Virginia, is an exception to this remark.



law of 1828. I shall, I trust, have an opportunity to state to what extent, and in what particulars, when it shall be proper to go into detail.

In the adjustment of every scheme of legislative protection, we must have reference to the necessities of the country in war, to the requisites for perfect defence, and essential independence; we must have regard also to the original adaptations, capabilities and advantages of our country, so that the applications of art may be rendered most powerful and productive by co-operating with the effects of nature; we are to keep in view former legislation and its effects, and the present condition of the property, capacity and industry of our citizens—we are to consult too, the separate interests, the peculiar views, and even the prejudices, if such there be, of the several States, and the different sections of the Union. Of the various pursuits and employments, those are to be chiefly fostered which conduce, not merely to wealth, but to the preservation and permanency of our republican institutions—and that which is entitled to precedence of all others is, Agriculture, which, as it was the first, so it is the most important of human occupations. Coeval with the creation, it will terminate only with the extinction of the human race. Commencing in the garden of Eden, it was one of the joys of Paradise, continued in the thorny wilderness of the world, attendant upon the first curse, to mitigate and render it supportable, it has been the solace of fallen man. It is the employment most congenial to his combined physical, moral and intellectual constitution, and most conducive to the happiness of individuals, and of communities. To free and independent husbandmen, we may confidently look for that morality, intelligence and piety, upon which the hopes of freedom must rest. “Protected by the divinity they adore, supported by the earth which they cultivate, at peace with themselves,” they bow to no master, and seek no change.



COLONIAL TRADE.



## COLONIAL TRADE.

PRIOR to the administration of General Jackson, the trade between the United States and the British West Indies had attracted much attention, and, at times, excited much interest. A controversy respecting it had been carried on between the United States and Great Britain, ever since the organization of our Government. The object of each party was to secure to its own vessels the carrying trade. It was a question of navigation, not of commerce. Our productions were desired by the West Indies, and theirs were highly useful to us. The interchange of commodities, therefore, was desired by all. But Great Britain insisted upon certain advantages for her vessels in carrying on this commerce, which would tend to exclude our own, from that participation in it, to which we were fairly entitled; and both nations had been tenacious upon this subject, not only for the purpose of fostering a branch of industry, but still more for its effects in building up the means of a Military Marine. There had been legislation and counter-legislation in both countries, which sometimes subjected this commerce to circuitry and restriction, and sometimes to entire prohibition. Acts of Congress had been passed prohibiting this commerce, except upon certain conditions, deemed necessary for the protection of our navigation, and authorizing the President to open our ports by *proclamation*, when the British should comply with such conditions. Soon after General Jackson came into power, it seems to have been determined to disregard the claims of our shipping, and to open the trade by yielding to the claims of Great Britain. An arrangement was accordingly made, merely by diplomatic correspondence, without any treaty, for carrying on the trade, upon the conditions which the British Government had contended for, and which we had so long resisted; and thus a controversy which had been carried on from the origin of the Government, was terminated by an unconditional surrender on our part. This was immediately proclaimed by the presses, and partisans of the administration, as a great diplomatic achievement. The subject came up in the Senate of the United States, and the following speech was delivered by Mr. Sprague.



## COLONIAL TRADE.

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IN SENATE, APRIL 3, 1832.

THE arrangement of the Colonial Trade with Great Britain, being under consideration in the Senate, April 3, 1832, Mr. Sprague made the following Speech.

MR. PRESIDENT: The gentleman from New York, (Mr. Marcy,) dissatisfied with the result of a comparison of the expenditures of the late and present administrations, has resorted to the substitution of a new issue. What has been accomplished in our foreign intercourse,—is the question upon which he challenges discussion. He has selected his ground, and thrown down his gauntlet. It was immediately taken up by the gentleman from Kentucky, (Mr. Clay,) who, at once, briefly, but satisfactorily, exhibited the superiority of our former executive. We are called upon to pursue the subject farther, and I shall do so by advancing, at once, to what its friends have proclaimed, as the proudest of their diplomatic achievements, the triumph which has been trumpeted, echoed, and reëchoed, from the ocean to the mountains, the arrangement of the Colonial Trade with Great Britain. This exploit has enveloped this Administration in such a blaze of glory, that it may be thought to require the hardihood of the Fire King himself to approach its flames; but the breath, by which it has been fanned, has too little of vitality to impart either intensity or duration. The note of exultation, which was raised, lost much of its effect upon reflecting minds, when it was perceived that these praises were rung in advance, before the work was seen or its char-



acter known ; and, of course, were to be deemed only as incense to its authors. Information that some agreement had been concluded reached this country on the third of October, 1830. Immediately the loud acclaim of triumph was reverberated to the extremities of the Union. But the terms and conditions of the arrangement could not be ascertained for months afterwards. Indeed, the British Order in Council did not issue until November, and the communications containing the agreement were never submitted to the public until the month of January following. Nay, so little solicitous were many, as to the character of the agreement, that they not only never examined it, but knew not in what documents it was to be found. Even during the present winter, leading, important public journals, and among them the *Richmond Enquirer*, have demanded, why did the Senate ratify the treaty under Mr. Van Buren's objectionable instructions ? Again, the *Trenton Emporium* asserts that the treaty was unanimously ratified by the Senate, and this language is copied into the paper here, at the seat of government, and diffused throughout the country ; while we all know that no treaty ever existed, the arrangement having been formed by diplomatic letters, which were not submitted for the approbation of the Senate.

I regret to say, that the delusion, thus propagated, is likely to be strengthened by a letter, recently published, under the signature of the President of the United States, in relation to the vote of the Senate upon the nomination of Mr. Van Buren in which he says, that the negotiation, which had been successfully terminated, had previously received the sanction of both Houses of Congress. What must be the surprise of the people, when they learn the fact, that, since the termination of that negotiation, there has been no vote, no action upon, no sanction of it, by either House of Congress !

If reference was had to the Act of May, 1830, it should be recollected that its passage was anterior to the conclusion of that negotiation, and its provisions were so entirely independent of prior instructions, that every member might have voted for the former, while he condemned the latter ; that there was, indeed, no reference to them, either in the Act itself, or the report of any committee.

The same letter attributes the action of the Senate to motives "for interrupting an important foreign negotiation." I shall make

no comment upon the indignity thus offered to a branch of the National Legislature, unprecedented and unparalleled as it is, in the history of this Government. I leave it to the Senate and to the People.

The President's communication indulges not a little in self-glorification, at having closed a contest, which had been carried on ever since our national existence. But how has it been terminated? By a glorious triumph or an inglorious surrender?—By a victory or a defeat?—That is the question.

Mr. Herries, in the British Parliament, after describing it as one of the longest and most interesting of national controversies, announced that it had been brought to a close, and that "America had entirely and unconditionally withdrawn all her pretensions."

This language aroused within me indignant American feelings. What—this commercial warfare, waged in our infancy, in weakness and depression—persevered in with firmness, to years of strength and manhood—and now, in our high and palmy state, terminated by an unconditional surrender. I could not believe it. It must be the arrogant assumption of a vaunting minister of Britain. In other contests, those of arms, her commanders had represented disaster, as success; defeat, as triumph. She had, in mimic war, upon the Serpentine River, exhibited, as a holiday show, the surrender of American to British ships; while we, in fierce encounter, upon the Lakes and upon the Ocean, had presented to the world the spectacle of the proud cross of St. George bowing in submission to the glorious star-spangled banner.

As I then turned with joy to American authority, to correct the misrepresentations of our enemies, so I now reverted with hope to our own envoy, to examine the representations which he had made at the Court of St. James. I found, sir, that he presented to Lord Aberdeen our statute of 1830, as the basis of an arrangement. I was anxious to learn what was his construction of its provisions, his conception of its scope, and the spirit in which was to be exercised the discretion, vested by the American Congress, to vindicate our interests and our honor. I was astonished—I was humiliated, to find that, upon its presentation to the British Government, he characterized it in the following language:—"It concedes in its terms all the power in the regulation of the Colonial Trade, and authorizes the President to confer on British vessels all those privileges, as well in the circuitous as the direct voyage, which

Great Britain has at any time demanded or desired ;” and that Mr. Herries had, in effect, but repeated the declarations of our own Minister. Still I would not despair, but turned with hope to the arrangement itself, trusting that its terms and conditions had not been fairly delineated in that sweeping concession of our Agent.

This examination, to be thorough, must necessarily be laborious, and I have no inducement to pursue it, except the importance of the subject to the country at large, and especially to my own State. Maine, with less than a thirtieth of the population, has about one-eighth of the tonnage of the United States. Indeed there are but two States that exceed her in amount, and those the powerful and ancient commonwealths of Massachusetts and New York ; and, while they have other paramount manufactures, her navigation is the great interest most likely to be seriously affected by the national counsels, and to which, therefore, her representatives should at all times be studiously attentive.

Mr. President : For what was this contest originally waged and so long maintained ? What was its object ? The prize contended for ? I answer, distinctly and emphatically, the carrying trade ; and that alone. The British have always been not only willing, but anxious, for our produce, if it could be transported in their ships. Indeed, the decrees of nature, their climate and geographical position, and their artificial institutions, particularly that of involuntary servitude, carried to such an enormous extent that more than seven-eighths of the whole population are slaves, render them essentially dependent upon the productions of the United States for their prosperity, if not for their existence. All experience has shown that they must have our supplies. Not less than fifteen thousand persons died of famine, in the island of Jamaica alone, during the five years that followed the peace of 1783, owing to British regulations embarrassing the transmission of our produce. And it is most curious and instructive to observe that, whenever we have restrained or interrupted this intercourse, they have been compelled, in order to open new channels, in which it might flow to their relief, to relax the rigor of their colonial system, which utterly excluded American vessels. In December, 1808, we laid an universal embargo ; and, in June following, Great Britain opened the ports of their Northern Provinces to our vessels. In 1812, we declared war, and forthwith she opened to us the island of Bermuda, thus allowing to our navigation, *flagrante bello*, that

trade which she refused in time of peace. After the treaty of 1815, she again resorted to her system of rigorous colonial occlusion, and we, by the act of April, 1818, retaliated by the exclusion of her vessels from the trade so prohibited to us; and immediately on the eighth and twenty-seventh of May following, she, by act of Parliament and order in Council, opened the ports of Halifax, in Nova Scotia, and St. Johns, in New Brunswick, to American vessels.

In addition to these illustrations of their necessities, it should be remembered that, during the whole period of these restrictions and prohibitions, from the adoption of the Constitution to the present day, the Governors of the different islands have, from time to time, been compelled to open their ports by special proclamation to the vessels of the United States with American produce. These dispensations have not been rare, but frequent, repeated and reiterated, owing to periodical convulsions of nature, and other causes.

Indeed we have had a recent instance. During the last season, the island of Barbadoes, in particular, was visited by a hurricane, leaving such destruction and desolation in its path, that it was necessary to invite timely relief by all practicable means, and, in accordance with former usage, the British laws imposing duties and charges upon American lumber and certain other articles in American vessels, were suspended until the first of March last.

This temporary dispensation of onerous imposition deserves the more particular notice, because the success of certain voyages, consequent upon it, has been most erroneously attributed to the recent diplomatic arrangement, thereby extending a delusive idea of its benefits, when the hurricane itself might as well be ascribed to its influence. Indeed, our vessels would have derived greater advantage from that dispensation of Providence, and consequent relaxation of British law, if the arrangement had never been made; because, under it, British vessels participated in the transportation, while, without it, ours alone would have enjoyed it to the exclusion of all others. This will be readily understood when it is recollected that, before this agreement was concluded, the legislation of the two countries reciprocally excluded the vessels of each from the waters of the other. These gubernatorial proclamations and dispensations of British laws opened their ports temporarily to us, but could not suspend our inhibition of British vessels. With



the West India colonies of other nations, Swedish, Danish, French, Dutch, and Spanish, we have long enjoyed without controversy, a free and uninterrupted commerce; they being content, that the transportation should be almost exclusively in American vessels, as the legitimate fruits of our nautical enterprise, and geographical position; of which Great Britain alone seeks to deprive us. And this she does in accordance with the two great leading features and objects of her navigation system, commenced by the Rump Parliament, confirmed in the reign of Charles the Second, and extended and perpetuated by numerous subsequent enactments, viz., first, to strengthen herself by monopolizing as much of the carrying trade of the world as possible; secondly, to weaken her rivals by diffusing the residue among the minor maritime powers, so as to prevent any one from engrossing any considerable portion of it. And of all nations, the United States is the rival in navigation and maritime power, whom she most dreads, and is most anxious to depress.\*

The great commercial statesman of Great Britain, (Mr. Huskisson,) has declared that the first blow to her policy was given by the United States. And it is true. We struck the first blow to her colonial system, by our Declaration of Independence; the first blow to her navigating policy, by countervailing laws; and the blow which dissolved the charm of her boasted invincibility upon the ocean, by the splendid and transcendent triumphs of the late war. In this, our long, protracted contest for the carrying trade, she has been stimulated by the double motive of extending her own shipping interest and repressing ours. It was commenced immediately after the acknowledgment of our Independence; and was animadverted upon, in the Continental Congress of 1784, as a cause for conferring additional powers upon the Confederation, in order to maintain it on our part with success. In the first Congress, in 1789, Mr. Madison declared, that he would meet interdict with interdict, "until we should be allowed to carry to the West India Islands, in our own vessels, the produce of America, which necessity compels them to take." And President Washington, in his instructions to Mr. Morris in the same year, says emphatically, "Let it be strongly impressed on your mind, that the privilege of carrying our own productions in our own vessels to their own

\* See Huskisson's Speeches.



islands, and bringing in return the productions of these islands to our own ports and market, is regarded here as of the highest importance ; and you will be careful not to countenance any idea of our dispensing with it in a treaty.”

The Twelfth Article of Jay's Treaty, which related to the colonial trade, was expunged by the Senate as utterly inadmissible. To this succeeded the wars of the French Revolution, followed by hostile orders in council, injurious decrees, and illegal practices, harassing to our commerce, and destructive of our rights, and producing on our part non-intercourse, embargo and war. The peace with Great Britain was followed by the celebrated commercial convention of 1815. And the colonial trade was in express terms excluded from its operation.

Immediately thereupon, Great Britain closed against us, those ports in the West Indies, which had been opened to our vessels during the war ; thereby endeavoring not only to monopolize to herself the carriage to the colonies, but also to secure a decisive advantage, in the direct trade, with the British European possessions, by means of the *triangular* voyage, by which she attained a triple freight ; one from Great Britain to the United States, another from hence to the West Indies, and a third thence to England ; whereas, before, she could enjoy but one, that of the ponderous and bulky produce from the sugar colonies to the parent country ; her ships being compelled to sail in the outward voyage in ballast only. Measures of counteraction were immediately resorted to in pursuance of the suggestions of Mr. Madison's message of December 1816. Negotiations were attempted in 1817, 1818, 1819, 1824, and 1826, without success. Both countries had recourse to separate and counteractive legislation, the United States by the statutes of 1817, 1818, 1820, 1822, and 1823 ; and Great Britain by Acts of Parliament of 1822 and 1825 ; interspersed occasionally by Royal orders in council, and Presidential proclamations ; until the trade was interdicted by each, in the vessels of the other, through their order in council of 1826, and the President's proclamation of 1827, issued in obedience to the express requirement of the acts of Congress. These prohibitions continued until the arrangement of Mr. McLane, in 1830. Whoever will read this part of our legislative and diplomatic history with attention, will perceive that the great paramount object, for which the parties were contending, and which they kept constantly in view, was the

carrying trade ; the British struggling to secure undue advantages to their shipping, and we demanding a participation upon equal terms.

All their devices, expedients and propositions, when rightly understood in their practical operation, will be found to have been adapted to this end. Knowing that we never would consent to their monopolizing the direct transportation, their purpose was to give the trade a circuitous direction through their northern provinces ; or the island of Bermuda, near our coast ; in British vessels, to the exclusion of American. To accomplish this, they at first, in 1817, proposed to reserve to themselves the right to vary their imposts upon our productions, at pleasure, in different colonies, so that the same articles might be made to pay a higher rate of duty when transported directly in an American bottom, than when circuitously in a British. This we firmly and decisively resisted, and the British, in the negotiations of 1818, expressly and unqualifiedly abandoned it. It was relinquished, too, by acts of Parliament of 1822 and 1825, and never renewed until the negotiations of Mr. McLane, in 1830. We at one time insisted that our produce should not be taxed higher in the West India Islands, than similar articles, the productions of the Northern provinces, or other British dominions. This has been denominated the "elsewhere" principle, which was incorporated into the act of 1823 ; but which was subsequently waived by our government in 1826.

The next expedient was to make an enumeration of certain articles to be carried to the West Indies ; another and longer list to be transported to Bermuda ; and yet another, more important, to be admitted to their northern provinces only. In this, we could not acquiesce, and occlusion of the ports was the consequence. They were opened by the agreement of 1830.

What are the terms and conditions of that arrangement ? What power does it concede to Great Britain ?—And first as to the—

#### TRANSPORTATION OF AMERICAN PRODUCE TO THE WEST INDIES.

The British have the power to impose duties without limitation upon American productions ; to vary the same at pleasure in every Colony, assessing different amounts in different ports ; and, when once received, to naturalize and treat them as their own, in sub-

sequent transitions ; and their vessels have the whole transportation from Colony to Colony, the American being utterly excluded.

Thus, upon a barrel of flour, passing from the United States to the West Indies, may be imposed a duty of one dollar, or a thousand dollars ; while the same may be carried to the northern provinces of Nova Scotia, or New Brunswick, and be there received without impost, and thence imported to the West Indies duty free. And so of every other article. The consequence is, that an American vessel, laden at any port in the United States, with flour or any other produce, destined for the West Indies, whatever be her route, and at whatever places she may have touched, must, at her port of discharge, pay the whole amount of duties which the British please to require, whether it be one or one hundred thousand dollars ; whilst a British vessel, with the same cargo, by merely touching, and taking a clearance, at Campo-Bello or Halifax, may be wholly exempted from duties on her arrival in the West Indies.

By the unrestrained use of this instrument, the graduation of duties, the British may, as with a magic wand, direct, change, or stop the current of trade at pleasure ; they have as complete control over it as of water from the reservoir conducted through artificial tubes, to which they alone have the keys. Do they wish to stop the direct trade as to all articles in American vessels ?—erect an impassable barrier of duties upon everything ? Do they wish to cause the current to flow, in British bottoms, by the way of New Brunswick or Nova Scotia ? Remove the obstruction of imposts, in that direction only, and its course will run freely. Or they may allow a part to pass in one direction, and force the residue in another. They may select a list of articles for the West Indies, another for Bermuda, and another for the Northern Provinces. This power is full, complete, and unlimited. We may be assured that they will exercise it, from time to time, as experience of their interests may dictate, and as our endurance shall tolerate. Sir, they have begun to exercise it already, by the Act of Parliament of 22d of April, 1831, the design of which cannot be misunderstood. Under its enactments, wheat-flour, beef, pork, hams, bacon, wood, and lumber, when imported into the West Indies, through their Northern Provinces, and of course in British vessels, pay no duty ; while the same articles, by other acts, when passing directly from the United States, in which alone

our vessels can participate, are oppressed with imposts, as follows : flour, five shillings sterling the barrel ; beef and pork, twelve shillings sterling the hundred weight ; wood and lumber, one pound eight shillings the thousand feet. The same act of 1831 has imposed additional duties, in the direct trade, upon staves and headings from seven shillings three pence to eleven shillings three pence ; and, upon white or yellow pine lumber, from five shillings to seven shillings sterling.

We see the effects, even in the short time which has already elapsed, and they will become more and more alarming by future developments.

The trade, instead of being direct in American bottoms, as it ought to be, is circuitous in British, as it ought not to be. Look at the official document just laid upon our table, which presents statements for the year next following the arrangement, during which our exports to the British American Colonies on our borders, were in value, \$4,060,896 ; and our imports from the same only \$864,189, while, to British West Indies, our exports were only \$1,441,700, and our imports \$1,284,678. The great mass of these exports to the Northern Provinces was carried thence in British vessels to the West Indies, or other distant possessions of Great Britain, for which they were originally destined. And, even in the short voyage, from the United States to the adjacent provinces, separated from us only by an imaginary line, the British tonnage has exceeded the American, the former being 83,055, and the latter but 66,805.

But, if the present enactments should not accomplish all their purposes against our navigation, they may increase the disparity, and enhance their advantages at pleasure : the whole magazine of legislation is open for the selection of their weapons of attack, while we have laid down our arms, and divested ourselves of the panoply of defence.

And what aggravates still more these bitter fruits of our recent diplomacy, is the fact that we have, heretofore, not only sternly refused to permit our opponents to hold this controlling power, of taxing our produce higher in the direct than in the circuitous voyage, but the British themselves, in the negotiations of 1818, unqualifiedly surrendered it, and never presumed to claim it afterwards, until it was conceded to them in this arrangement.

How can this sudden submission, to a long-abandoned British



pretension, be accounted for? Only by the eagerness of our negotiators to swallow any thing and every thing that was baited with the name of arrangement. This recklessness was so great that our minister at London did not even read the negotiation of 1818; which followed our act of that year, accompanied the renewal of the Convention of 1815, and were so important, that two negotiators, on our part, Mr. Gallatin and Mr. Rush, were associated; and in which the British made this unqualified abandonment; nay, he did not even possess the documents which contained them, although they had been printed for more than seven years. We learn this from his own letter of the fourteenth of March, 1831.

Sir, we not only refused to permit our produce to be taxed higher in the direct, than in the circuitous voyage, but we at one time insisted that it should be subject to no higher duties than similar articles, the productions of their own dominions. This latter has been denominated the "elsewhere" principle, and has been attempted to be confounded with the former, from which it is widely different. It was incorporated into the act of 1823, by the use of the word "elsewhere," was insisted upon in Mr. Rush's negotiations of 1824, upon which point alone they broke off, and was subsequently waived through Mr. Gallatin, in 1826. But the principle that our produce should be taxed no more directly than circuitously, that is, when transported in our own vessels, than when in British bottoms, has never before been, for a moment, yielded by us, but was expressly conceded by Great Britain, not only in the protocols and basis of 1818, but her acts of Parliament of 1822, and the still more celebrated one of 1825.

But Mr. McLane, to console us for this unlimited concession of power, says, that we have "a safe guarantee against an excessive" exercise of it.

In what does it consist? Where is it to be found? In the interest of Great Britain alone! "The increase of duties," says he, "will fall upon the planter." And is this an argument to be addressed to freemen? Might not the slave say, It is for the interest of my master to treat me kindly? But who would therefore submit to uncontrolled dominion? The interests of Great Britain! What are they? Her darling, primary interest is to depress our marine, and elevate her own. "In commerce, in navigation, in naval power, and maritime pretensions, (says Mr. Huskisson,) the United States are our most formidable rival." The present



Secretary of State would have told him, as he did in 1827, that, "provided the islands could get supplies, England cared not for what price, so it were a means of increasing her navigation." \* \* "This being the avowed policy of Great Britain, the question is, (says Mr. Livingston,) whether we shall play into her hands." "Yes," says Mr. McLane, "because of this 'safe guarantee,' the interests of the planters!" But where is even this miserable security, when we see that, however enormous the duties in the direct, they may be nothing in the circuitous trade, and when we know, too, that the imposts are paid into the colonial treasury, for the benefit of the planters themselves?

I turn now, sir, to another description of merchandise—

#### FOREIGN PRODUCTIONS.

How stands the arrangement as to them?

Do the vessels of the two countries enjoy equal rights and equal privileges? Sir, will it be credited, by the people of this country, that, as to the whole class of foreign articles, British vessels may take all of them at pleasure from the United States, to the colonies, while an American vessel is absolutely prohibited from transporting any? A British and an American ship shall be lying side by side in the port of New York, for example; the former may make up an assorted cargo of American produce, and debenture goods of all kinds; while, if the latter take a single article, beside our own productions, she is liable to seizure and condemnation the moment she enters British waters!

Need I dwell upon the advantages which this concession gives to our rivals? The importance of the privilege of assorted cargoes, in the West India trade, is understood by every merchant's clerk who has ever entered a counting-room. Mr. McLane himself acknowledged it in 1830, when he declared that the trade through the Northern colonies was diverted into that channel, instead of the neutral islands, by the greater facilities of making up "assorted cargoes." It moreover yields to our rival new advantages in the triple voyage. English vessels may now take a cargo from Great Britain to the United States; sell the whole or a part only here, as the state of the market may invite; fill up either with American or foreign productions; proceed to the West Indies; sell the whole or a part only there, as interest may dictate; take on

board colonial produce or other merchandise ; and sail for Great Britain or her dominions ; while an American ship, starting from the same point, is at liberty indeed to take a cargo from England to the United States, but not to carry one article of that cargo, or of any other foreign merchandise, to the West Indies, nor to transport any thing from the colonies to Great Britain.

How far this advantage may enable our rival to overpower our navigation, in a competition for the direct trade, remains to be developed by experience. If the result should be decisive in their favor, and their navigation can monopolize the whole directly, they may not exercise the power they possess to force it through other channels ; for their object will have been attained. They can try this experiment with safety ; for, if they do not succeed, resort may be had to their full power of substituting the circuitous transportation.

The quantity of foreign goods which would be shipped to the British West Indies in an open commerce, is not inconsiderable. The actual amount cannot be accurately ascertained by reason of past restrictions and embarrassments. To the Danish islands we sent alien merchandise. In the year 1829, to the value of \$282,401, and in 1830, of \$220,723 ; and to Cuba, in the same years, \$1,859,626, and \$1,477,675 ; to which island the amount, in other years, has considerably exceeded two millions. What apology does our negotiator offer for yielding this discrimination in favor of British ships ? He says, “ I am not aware, that the restriction of the right of importation into the colonies, to articles of American produce, was at any period seriously objected to by our Government.” True, sir, provided British vessels were also so restricted. We have uniformly insisted upon equality in navigation—the vessels of both to be confined to the same commodities ; and the British have not, in our former negotiations, had the effrontery to ask for this gross and palpable partiality in favor of their navigation. In the negotiations of 1818, at the fifth conference, they offered a project, stipulating, that British and American vessels should have equal rights of importation from the United States into the West India islands, and confining both to the same articles, the produce and manufacture of the United States. Our envoy ought to have understood, that it was not the restriction of our ships to our goods merely, but the greater liberty allowed to the British, the injurious difference that we should earnestly resist. As matter

of fixed principle, we should never, for an instant, tolerate an invidious distinction in favor of a foreign against our own flag.

But our negotiator thought otherwise. He says, that "the difference, in this respect, between the American and British vessels," if we allow it to continue, "cannot be an object of much importance in any point of view." It will generally be our interest, as it is that of every other nation, to allow the exportation of its surplus foreign produce in the vessels of any other country." Aye, and to confine such exports to foreign bottoms, in exclusion of our own? Is this for interest? And is it not still more for our interest to send our own produce to a market, than that of foreigners, and of course to consent that alien ships alone should transport it? What a conception does this exhibit of the great navigating interest of the country, and of the spirit and object of our whole debenture system! Why do we encourage the importation and exportation of foreign goods by the benefit of drawback? Is it not to give employment to our navigators, ship owners, and merchants?

But, sir, the gravest, and most solemn ground of complaint against this discrimination in favor of British vessels still remains. It is the—

#### VIOLETION OF THE ACT OF CONGRESS OF 1830.

By the first section, the President is authorized to issue his proclamation, repealing our Acts of 1818, 1820, and 1823, and opening our ports upon certain conditions, and upon those conditions only. One of them is in these words:—"That the vessels of the United States may import into the said colonial possessions, from the United States, any article or articles, which could be imported in British vessels into the said possessions, from the United States."

Now, sir, so far from there being any evidence that an American could import every article which a British vessel might, the proof was plenary, as we all well know, that the whole class of foreign goods are prohibited in the former, and allowed in the latter.

Here is the law, and here stands the fact. Ingenuity cannot evade, and I doubt whether effrontery can deny, their incompatibility.

This modification of the Act, this executive repeal of one of its clear and positive provisions, has been called *construction*! And

let us see the reasons which have been assigned for such a stretch of power. I will examine them all. They are embodied in the President's Message of January, 1831, in which he says he does not suppose "that the *omission* to restrict, in terms, the importations to the productions of the country to which the vessels respectively belong, was intentional," for three reasons.

Here, it seems, the President was advised that there was an *omission* in the Act, and he undertook to supply it by imposing restrictions which confessedly Congress had not, and assigns his reasons for this assumption of legislative power. First, that this enactment is inconsistent with "the propositions previously made by this Government, to that of Great Britain, and which were before Congress at the time of the passage of the Act." The fact of such inconsistency does not exist. But suppose it did. Is it to be tolerated that, if we make a law at variance with presidential recommendations, and send it to him to be executed, he shall alter, change and modify, till it conforms to his own preëxisting views? Why might he not as well have made the law without our intervention? Why send his propositions here, if Congress are not to be supposed capable of dissenting from them?

The second reason is, that it is at variance with "the principles which govern the maritime legislation of the two countries." What! requiring that our vessels should not be subject to an injurious distinction in aid of the foreign, incompatible with former laws, when we all know that the object and aim of all those enactments was to give advantages to our own over their rivals? And there is not, in our whole history, a single enactment that countenances this partiality to alien ships. But if there were, could we never change it? And if the National Legislature should pass an act to destroy previous inequality, is the President to refuse to execute it, because it is a new law? But it is not in accordance with British legislation! Indeed! and is an American Chief Magistrate to make a statute of the American Congress bend and break before an act of the Imperial Parliament? These two reasons, if reasons they can be called, are the same as were assigned by Mr. McLane to the late Secretary of State.

But the writer of the message has discovered another, entirely new, that had never even occurred to our negotiator. It is, that this enactment, as to the transportation to the West Indies, is inconsistent with "the provisions of the existing commercial treaty"



with England! That convention not only does not embrace any part of the Colonial Trade, but, in express terms, wholly excludes it.\* But suppose the fact were otherwise. The President is authorized to issue his proclamations when a certain condition shall have been previously performed; he thinks such performance incompatible with a treaty. What is he to do? Issue his proclamation in despite of the condition, and as if it never existed? Assume an absolute authority which has never been conferred? No, but assign that as a reason for not issuing the proclamation.

Mr. Van Buren, also, has assigned a reason, or apology, for disregarding this enactment. That I may be sure to do him no injustice, I will quote his very words, from the letter of fifth October, 1830, in which he transmits the proclamation, assures Mr. McLane that the "*construction*" of Lord Aberdeen and himself has been "*adopted without reserve,*" and adds—

"The President has derived great satisfaction from the candor and liberality which has characterized the conduct of His Majesty's Ministers, throughout the negotiation, and particularly in not suffering the inadvertencies of our legislation, attributable to the haste and confusion of the closing scenes of the session, to defeat or delay the adjustment," etc. etc.; and he is subsequently directed "to make His Majesty's Government acquainted with these sentiments."

"Inadvertencies!"—What should we say if the Judiciary had dared to set aside a law, on the assumption that Congress knew not what they were about when it passed? Inadvertencies! Yet this provision was in the bill of 1827, which passed the House of Representatives, is the same as Mr. Madison's proposition in 1790, and Mr. Clay's construction in 1826, and was contained in this Act of 1830, when originally reported by Mr. Cambreleng, and which Mr. Van Buren himself, when communicating it to Mr. McLane, in June, 1830, characterized as a "*solemn public movement on our part*;" yet, afterwards, lays the same at the foot of the British throne, thanking His Majesty for concurring in a disregard of its enactment, and offering, in excuse for its "*inadvertencies,*" "*the haste and confusion*" of the National Legislature. What language is this for an American statesman, and what a picture is here to be exhibited to the eye of British royalty, of the dignity and deliberation of a Republican—an American Congress!

\* See Article Second of the Convention, which is direct and unequivocal.



Thank Heaven, it has no precedent or parallel in our history. I will do Mr. McLane the justice to say, that he did not exhibit to the English Government its most offensive parts ; his own feelings must have recoiled at being the medium of such a communication.

Having considered the power, which our rival possesses to control the *exports* in the Colonial Trade, I will now examine it as to the *imports* ; and, first, of—

#### WEST INDIA PRODUCE.

The British have the power, by laying export duties in the islands and varying them at pleasure, to give such a direction to the transmission of their productions, as experience of their interests may dictate. They may erect an insuperable barrier of such duties in the direct trade to the United States, in which alone our vessels can participate, and leave it free and unobstructed in British vessels, by the circuitous route of the Northern Provinces ; for it is to be kept in remembrance, that an American bottom is not permitted to carry their produce from colony to colony. Such export duties have heretofore existed in some of the colonies. This right was formerly refused to Great Britain, by the administration of Mr. Monroe ; and the Acts of 1820 and 1823 guarded against it, by requiring importations of colonial produce to be *direct* from the island of which it was the growth.

#### PLAISTER OF PARIS.

The trade in this article has been of much importance to Maine. It is dug from the earth in the Provinces, and from 100,000 to 150,000 tons are annually imported into the United States, giving employment to a large amount of tonnage, which we have heretofore enjoyed, almost exclusively, but which, under this arrangement, the British can, at their option, entirely monopolize. The contrivance, by which this is to be accomplished, is simple, but effectual. To give a show of reciprocity, our vessels are admitted into the Provinces ; but then they are restricted to what are called free ports, such as Halifax, St. Johns, and St. Andrews ; while British vessels are subject to no such limitation, but are at liberty to go to all others. The places at which the plaister is dug, are not at the free ports, and their vessels may take it from the quarries,

and transport it to any part of the United States ; while, to reach our vessels, it must first be carried to the free ports, at an expense of \$75 to \$100 the ton, and there be unladen and re-shipped. Let me illustrate this. We have, at Hallowell, in Maine, quarries of the finest building material in the world—beautiful, ever-enduring granite. Suppose, sir,—what, fortunately, is not true—but imagine that the Provinces were our only market, as the United States is for their plaister ; and that, to give the British a color of equality in the transportation, we should say, Your vessels may take this granite, but you shall not go to Hallowell—you shall not enter the Kennebec River. You must seek for it at Portsmouth, Portland or Wiscasset, while we will take it direct to any and all your ports. Would a British vessel ever transport a single cargo ? Yet such is the advantage which we have conceded to them, as to gypsum, an article of which the freight exceeds the original value at the quarries, which indeed would be utterly worthless, if we did not become the purchasers, and which they have, therefore, at former periods, permitted to be transported wholly in American vessels.

The same remarks are applicable, in substance, to the trade in grindstones.

Such is the power which this arrangement concedes to Britain, in the exportation to her colonies of American and foreign goods, and the importation of West Indian and provincial produce. It is full and complete, to the entire control of the navigation. How far she may carry the exercise of it, will depend upon our endurance. She will stretch the cord until there is danger of disruption. So long as we acquiesce, she will continue to advance ; and therefore I now raise my voice against it. This very discussion may arrest her progress, or, at least, cause her to pause. She has already begun to use the lever which we put into her hands, and we see its effects.

In all competition with foreign navigation, upon equal terms, it is known that our industry, economy, skill and enterprise, have given us decisive superiority. In the direct trade with Great Britain, we have had more than four-fifths of the transportation, and a still greater proportion in our commerce with other nations. I hold in my hand a most instructive document, which I have prepared, to exhibit the proportion of American, British and foreign tonnage, in our external trade, from the years 1789 to 1830, inclu-

sive ; by which may be seen, at a glance as at a thermometer, the elevation and depression of our navigation, and the effects of the comparative advantages which it enjoyed. In the most disastrous periods, at the commencement of the Government during the late war, and subsequently while the English were enjoying the fruits of the triangular voyage, the proportion of foreign to domestic tonnage never exceeded forty-five and a half of the former, to one hundred of the latter—i. e. less than forty-six per cent.; while, in our prosperity, it was frequently less than ten per cent. In our West India trade, the disproportion has been still greater, for the obvious reasons of our vicinage, the remoteness of the parent countries, and the inaptitude of such a population as that of the Islands, to traversing the ocean.

[Here Mr. Sprague presented two tabular Statements.]

It thus appears that, from 1821 to 1830, inclusive, a term of ten years next preceding this arrangement, and from the fifth of October, 1830, to the 30th of September, 1831, the year succeeding it, the average proportion of alien to American tonnage, in the Colonial Trade, was as follows :

COUNTRIES.	From 1821 to 1830, Foreign was to the American as				In 1831, Foreign was to the American as			
Swedish W. I.....	3.72	to 100	less than 4	per cent.	7.84	to 100	more than 7	per ct.
Danish W. I.....	2.10	" "	3	"	8.90	" "	8	"
British W. I.....	8.7	" "	9	"	46.47	" "	46	"
Brit. Am. Col.....	9.64	" "	10	"	110.52	" "	110	"
W. I. generally...	2.27	" "	3	"	2.62	" "	2	"

What answer has been given to these appalling facts? I will tell you ; for the Secretary of the Treasury, in communicating this statement for 1831, seeing their force, has, in order to weaken it, sent us an extract from a letter of one of the Collectors of the Customs, in which it is stated that, from his port, a large "proportion of such American vessels as clear for the "West Indies generally," proceed in fact to the English Islands. Be it so. Nay, suppose that to have been the destination of all such American vessels, and not of any of the alien. Add all general clearances for the West Indies on our part, to those for the British Islands: How much does it vary the result?

The amount of tonnage employed in that year, 1831, was—

With British West Indies,	36,440	American.	16,937	Foreign.
British American Colonies,	77,757		85,916	
West Indies generally,	14,987	say,	0	
	<u>129,164</u>		<u>102,853</u>	

It will then be 102,853 British, to 129,164 American; more than seventy-nine per cent.; when, before the arrangement, the British had less than ten per cent.

But it is said that, although there may have been this enormous growth of British tonnage, yet there has been an increase of ours also in this trade. It would seem strange indeed, if, after opening the ports, no more of our vessels should go to them than previously, and during the state of general occlusion, especially when such a measure takes away from us the transportation to the neutral islands through which the supplies were before carried. And yet, for the same period of years, from 1821 to 1830 inclusive, during which there was no arrangement, and embarrassed from time to time, by restrictions, counter legislation and prohibition, the average amount of American shipping in the trade with the English colonies were greater than in the year 1831, and the British much less—as follows :

	Average American tonnage per annum, for ten years, 1821 to 1830.		1831.	
	American.	Foreign.	American.	Foreign.
British West Indies,.....	50,078	4,043	36,440	16,937
British American Colonies,...	77,492	7,467	77,737	85,916
	127,570	11,510	114,177	102,853
West Indies generally,.....	8,526		14,987	
	<u>136,096</u>	<u>11,510</u>	<u>129,164</u>	<u>102,853</u>

So that, for the loss of transportation to the neutral islands, we have not even the compensation of any positive increase of tonnage to the British ports. And, of that which we have, more than two thirds, as appears by the above statement, is merely to the Northern Provinces on our borders. We lose the long freight



which we before enjoyed, and get a part only of the short which has been substituted, and even that portion will hereafter be diminishing. That such was the former course of the trade, is universally known. Indeed, I have such authority as will convince even the political advocates of the arrangement.

In March, 1820, Mr. McLane said, the routes through which these supplies now pass comprehend not merely the northern possessions, which have the solitary advantage of occasionally affording a better assortment of goods ; but the islands of St. Thomas and St. Bartholomew, Martinique, Guadaloupe, and the port of St. Jago de Cuba.

And Mr. Van Buren, in 1829, declared of this trade, " It is carried on in American vessels by St. Barts and St. Thomas, and open ports in North American Colonies." And now, since the arrangement, it is prosecuted to great extent in British vessels, to whom we have yielded the means of monopolizing it entirely. Who will be benefited? The producer? Will it increase his market? If it might, it would still be a miserable apology for this injury to the ship owner. Never, in the whole history of our country, was the idea tolerated, that our navigation should be sacrificed in any event, or for any consideration. In 1818, the Committee of the House who reported the law of that year sternly repelled such a suggestion. There can be no divorce of the great interests of the country. They are linked by indissoluble bands ; and injury to one is depression to all.

But, as this is the only apology, or excuse, that can be offered, let us examine it for a moment. Will the markets for our produce be increased? How? By what process? Every thing which Great Britain can supply to her islands, either from the Northern Provinces, or any port of her dominions, she is resolved to furnish herself ; this we know ; this she has avowed ; it is her fixed policy. From us will be admitted only those indispensable necessities which cannot be elsewhere obtained, consisting almost exclusively of provisions and lumber, and these she received before the arrangement ; partly through the neutral islands, and partly by her northern ports, to both which, our vessels had the exclusive carriage, it being utterly prohibited to the British. In what manner will they be transmitted under the arrangement? Through her northern ports, still burthened by double freights and insurance. Is the route thus substituted less expensive than that which



it has supplanted? Even Mr. McLane knew and asserted that it was not, and also declared that the portion of the trade which sought the northern channels, instead of the neutral, was diverted there only by the greater facility for assorted cargoes; and he added that the burdens of the indirect trade fell upon the planter. How then is his consumption, or our markets, to be increased by this substitution of the present circuitous route in British vessels for the former in American? Indeed, so essential are our supplies, that a change from this indirect trade, when the ports were closed to the direct by opening them, does not seem, from past experience, to have materially affected the result. I hold in my hand two tabular statements, which exhibit this very clearly.

[Mr. Sprague here presented two tabular Statements.]

The first is compiled from official documents, and the latter, from the authority of our late minister to London.

In this connection, I would notice an error, or deception, which has been industriously propagated. It has been represented, that our inland trade from New York, Vermont and Maine, to Canada and New Brunswick, had its origin, too, in this arrangement; when we all know that it existed before, and was prosecuted without restraint; that the restrictive and prohibitory laws were confined to the commerce "by sea," and reached not to that by land, lakes, or rivers. We further know, that it was the anxious desire of Great Britain to continue and extend it. Even Mr. Canning, in his bitterest mood, declared, that it was not her purpose to interrupt it, and she did not. Indeed, so palpably for her interest, and in accordance with her policy is it, that it has been sometimes insisted that the United States ought to suppress it as a means of coercing Great Britain. The opening of this market, by internal communication with Quebec and New Brunswick, has been ascribed to Mr. McLane's negotiation, with about the same propriety as were the effects of the hurricane in Barbadoes.

There is yet another most grave and serious aspect of this subject, that of our

#### EXPORTS TO AND IMPORTS FROM GREAT BRITAIN.

Since the British have been permitted to take clearances from our ports for their northern provinces, under the recent agreement, that government has manifested a disposition to put in ope-

ration the same machinery of varying imposts in order to monopolize the whole navigation between the United States and her European dominions. Since the arrangement, the duty upon cotton imported from the United States into England has been changed from an *ad valorem* of six per cent. to a specific of five-eighths of a penny per pound; while from the provinces, the duty is but one twenty-fifth of a penny. The consequence is, that a British ship may load in the United States with our cotton, and, by touching at Bermuda, Halifax, or any other colonial port, save in duties the difference between five-eighths and one twenty-fifth of a penny per pound, which is equal to a fair freight from Charleston to Liverpool. British ship owners have actually begun to take advantage of this discrimination. A letter from a respectable gentleman of Lubec in Maine, under date of the thirteenth of March last, informs me, that a merchant from New Brunswick has recently gone to Savannah for the avowed purpose of so employing his ship, and declaring that he would thereby have an advantage over the Americans of five shillings six pence sterling per hundred weight in the imposts; and that it would amount to twelve hundred pounds upon a single cargo. This business must be arrested. If Great Britain has the right to make this discrimination, she may vary and increase it without limitation, until the direct importation in American vessels is effectually suppressed, and the whole transferred to British bottoms by a circuitous route. And if she has this power over the transmission of our cotton to England, she has the same as to tobacco, rice, and all our exports to all her dominions; the transportation of which may, and, if unresisted, will be engrossed by foreign ships; and the imports also. For she may, with the same propriety, by discriminating export duties, impose burdens upon the direct transmission to the United States in our vessels, leaving them free to British bottoms through her colonies.

Here the important question arises, Can this be rightfully done by Great Britain, or is it incompatible with the commercial convention which regulates the trade between this country and her European dominions? I confess that to me it appears to be inconsistent with a fair and just exposition of that instrument. But it seems that she does not so regard it. She claims the power, and

it does not appear that this administration has ever denied that she possesses it.\*

Mr. McLane must have known that such were her pretensions, that she asserted the right to make these discriminations; and yet, in this important arrangement, allowing her vessels to clear from the United States for the colonies, he provides no security, enters no protest, suggests no caveat against its exercise; but, on the contrary, acquiesces in a general reservation, by Lord Aberdeen,

\* Since the above was pronounced, the President has, by message, communicated to the Senate a letter from Lord Aberdeen to Mr. Barbour, dated on the twenty-sixth of January, 1829, by which it appears that the latter had protested against such discriminations as incompatible with the Commercial Convention, but the former had insisted that there was no such incompatibility, and that the British Government had the right to institute and persevere in such measures. As to the advantage to be gained by a British ship, he says their laws did not then confer it, and adds, it "could not be effected without the concurrence of the United States. It rests entirely with the United States to allow or prohibit the carriage of their cotton to a British Colony in the British ship, which, in the case supposed, is to carry it to England," and that, by Mr. Adams's proclamation of March, 1827, it was prohibited.

All this must have been known to the American Minister and Secretary of State, when, by the arrangement of 1830, the prohibition was removed. The same message also transmitted extracts of two letters from Mr. McLane to Mr. Van Buren, under dates of fourteenth of March, and fourteenth of April, 1831; by which it appears that the Chancellor of the Exchequer had expressed an intention to prevent the circuitous transmission, by requiring a certificate of origin, that it might not defeat his own purposes of revenue. But no promise, no stipulation, was obtained. On the contrary, our right under the Convention seems to be abandoned in the conclusion of the letter. The language is, "I have no great confidence in our *pretensions* under the Convention, so long as the vessels of both countries shall be placed on the same footing in the direct trade with British European ports, and, therefore, I thought the surest means of attaining our object would be to address myself immediately to the interests of Great Britain herself. It is apparent that the financial object of this Government would be effectually frustrated by keeping up the discrimination between the direct and indirect importation, and there is little danger that the English finances will ever be in a situation to enable her to disregard so important a branch of her revenue."

The power is, in effect, conceded, and our security against its exercise is merely and solely the interest of Great Britain. She cannot dispense, it is said, with the revenue, which would be lost under the low duty of one twenty-fifth of a penny by way of the colonies. What security is this? How easy for the next Parliament to add five-eighths of a penny to both imposts, the direct and circuitous, preserving the difference, and securing the revenue! Nay, if our right is abandoned, she may increase the discrimination, and when for revenue she adds to the duty from the colonies five-eighths of a penny, she may increase it in the direct voyage to ten or a hundred times that amount.

of a right in his government thereafter, to change the condition of the commercial intercourse between the United States and Great Britain, so as to render it less favorable to this country.

This part of the arrangement merits deliberate attention. The law of 1830 peremptorily required of the Executive, that no agreement respecting the colonies, should be assented to except one "leaving the commercial intercourse of the United States with all other parts of the British dominions or provinces, on a footing not less favorable to the United States than it now is." "But," says the English minister, "we will make no stipulation to continue that intercourse, as favorable as it now is; on the contrary, I expressly reserve to my Government the liberty of introducing changes at pleasure, however unpropitious to the United States." And to this Mr. McLane assented.

Now, sir, suppose the British Government have already, or shall hereafter, avail themselves of this restriction, and place the other intercourse upon a footing less favorable to the United States. The question arises, Is the arrangement still in force? Does it continue obligatory? If so, then it subsists in violation of another positive enactment of the statute. If not—if the exercise of the right thus reserved by Great Britain dissolves the contract, then this boasted agreement is rendered a nullity, by placing its existence at the mere will of our opponent.

The statute of 1830 vested in the Executive large discretionary powers, with the design that they should be prudently husbanded, and employed only for the advancement of the interests of our country; instead of which he seems to have exhausted the whole at once; and, not contented with that, transcended their limits, in accordance with the views of our rival. Lord Aberdeen is indulged in all his *constructions*, as he is pleased to denominate them, permitted to mould at pleasure not only the English statute, but our own act of Congress. His every requisition is submitted to without reserve. Not even a limitation, a caution, a counter suggestion of any sort, is interposed in our behalf.

There is one defence set up by this administration of the terms of this contract which deserves a passing notice; it is, that they are the same which were proposed by their immediate predecessors. Yes, after having loaded them with abuse, prostrated them by calumnies, driven them by clamor from their stations, their opinions are now quoted; their example is relied upon; refuge



and defence are now sought under the broad and ample shield of their integrity and ability. This, then, is the high-blown merit of this boasted achievement, that it is the adoption of a work prepared by others, who have been made the victims of political denunciation. But even this defence is without foundation. It is true that Mr. McLane's original propositions were substantially the same as those authorized by Mr. Adams, but it is also true, that they were never accepted, and that the final agreement is essentially variant. To put this matter at rest, I will point out in what particulars.

The offer of Mr. Adams, renewed by his successor, was that, upon certain conditions, we should have the full benefit of the act of Parliament of the fifth of July 1825, which established, among other things, these two most important points :

1st. A limitation and specification of the duties upon our produce.

2d. An equalization of them in the direct and circuitous voyage. Both of which essential points are unconditionally surrendered in the final adjustment. Lord Aberdeen having, in the most express and reiterated language, assented to by our Minister, reserved to his government the right to increase, diminish, alter and vary the schedule of duties *ad libitum*.

That Mr. McLane understood that his original propositions would secure the benefit of those restricted and equal imposts, is certain. In his letter of the 16th of March, he says, that they embrace "the scale of duties prescribed by the act of 1825." And, in a subsequent communication, that the negotiation will result in one of three modes—the two last of which are the revocation of the British order, either "upon the terms of my proposition or," "with some increase of the duties imposed by the act of Parliament of 1825, to favor their northern provinces." And the recent correspondence laid before the Senate yesterday, contains plenary and conclusive evidence, that such were his original views.

There is a third difference. Mr. Clay's offer embraced the benefits of the acts of Parliament according to his understanding of its provisions—as communicated to our minister—which was, that our vessels might import, from the United States into the colonies, every thing which the British could ; and if Mr. Gallatin had assented to any compact, it must have embraced this construc-



tion. Indeed, it was never suggested, during the last administration, that any disparity, in this respect, could be tolerated for a moment. Yet, now, the whole class of foreign productions are free to British, and prohibited to American, vessels.

There is yet another distinction worthy of remark. In authorizing Mr. Gallatin to waive the restriction to the direct trade, Mr. Clay says that it is to be only as an experiment, and revocable at the pleasure of our government. But Mr. McLane made no such reservation; and if his compact has any permanency or duration, we are precluded from renewing this restriction of our act of 1823, however injurious may be its omission.

#### HUMILIATION.

Having examined this negotiation with much attention, I feel myself constrained, as an American citizen, alive to the honor of my country; as a Senator, bound to vindicate its dignity, and assert its equality among the nations of the earth, to animadvert upon the tone and manner in which it has been conducted.

Anterior to the year 1829, there has not been, in our national history, a more brilliant or unsullied page than that of our foreign diplomacy, and especially with England. In the presence of that nation and its monarch, all our former national representatives, from the first unbending son of Massachusetts, to the last high-minded Virginian, have stood firmly erect in conscious, republican self-respect. They demanded rights, but never solicited favors; proffering equal friendship, but never bending the knee as suppliants. They met not arrogance by humility; encroachment by submission; and war upon our interests by solicitations and entreaties. Our fathers grappled with the British lion, but never fawned or crouched before him. How it has been recently, the negotiations of this arrangement will exhibit.

They commenced in the autumn of 1829, by verbal conferences in which Mr. McLane made his proposition, accompanied by his solicitation that it might be taken into early and candid consideration, and "expressing the anxious desire of the President of the United States." Receiving no response, he, on the twelfth of December, addressed a long letter to the British Minister, reciting "the anxious desire of the President, repeating the proposition, renewing his solicitation," and making an "appeal to the candor

and liberality of His Majesty's Government." On the fourteenth, Lord Aberdeen replies by a barren note of a few lines, saying that he will lay the proposition before the king. The month of December passes by—no answer is received—January—no answer—February—no answer—March comes, but no answer with it ; and, in this state of cold and haughty neglect, what does our minister ? He writes a long, supplicatory epistle, of nearly twenty closely printed pages, in which he is seen "praying for a decision." "Again solicits—begs to suggest," recites his former offer in the following humble tone :

"The proposition which the undersigned has already had the honor to submit, namely, that the United States should do now, that which they might have done in 1825—repeal the measures which may be alleged to have contributed to the present evil, and repeal the laws which have been matter of complaint ; and that England should assent now to a measure which, but a few years since, she herself proposed."

Not content with this, he introduces to the English Government the distinction of parties in this country, admits "the failure of the past administration to comply" with the Act of 1825, and that, "whether it be a subject more of regret or censure, it ought to be enough, that the claims, advanced in justification of it, have since been abandoned, by those who made them." Regret or censure, from whom ?—the British ? Enough, for what ?—atonement to Great Britain ? He asks to be "excused" "in making this, his last application for an early decision." He admits "the injurious effects of the existing regulations upon the commercial and navigating enterprise of the people of the United States ;" that his hopes rest, "not so much upon the expectation of peculiar favor to the United States, as of a liberal compliance of His Majesty's Government with its own regulations." Peculiar favor !—"liberal compliance !"—to relieve our commerce and navigation, in which her statesmen proclaim us their "most formidable rival." He "begs to observe," and "begs leave further to observe," and, in conclusion, exhibits himself in the attitude of "repeating for the last time"—(again !)—"his deep solicitude for the result ;" and "most earnestly recalling the attention of His Majesty's Ministers." That, should this point be unfavorably decided, the United States, while disappointed in its cherished hopes, would find nothing conciliating in the retrospect of a long course of fruitless negotiation,

and nothing cheering in the future prospect, darkened, as it would be by a possibility of a recurrence by the two nations to that system of countervailing measures, which has already proved so detrimental to their harmony and welfare !”

Had England’s monarch his foot upon our neck ? Were we begging for life ? At the darkest periods of our revolutionary contest—in the gloomiest moments of the last war—was there ever such supplications for relief—such sombre pictures of the future ? No. If there had been, we should not speedily have been cheered by the beams of glory and of peace.

And what was the response to all this “deep solicitude,” this prostration, this “renewed solicitation,” begging, and entreating of His Britannic Majesty ? Not one word ! Utter silence, supercilious coldness, and haughty neglect. How does our Minister meet such contumelious treatment of this, his last earnest and pathetic appeal ? He goes to the “Foreign Office,” to renew again his solicitations. On the sixth of April following, he says, “I have had a conference with Lord Aberdeen to-day, which I sought for the purpose of urging the definitive answer to my proposition.” He then speaks of “previous conferences,” and expectations ; and adds :

“I have not failed to represent to him the very serious injury and embarrassment, which must result from delaying the answer until the Congress shall rise, and of what, I fear, may be the insuperable difficulties of any prospective legislation, with a view to a future arrangement. None of these efforts have yet proved sufficient to bring the answer.”

The residue of April passes by—no answer ; May—no answer ; June—no answer ; July comes—but with no reply. And then Mr. McLane, having received the Act of May preceding, seeks a verbal conference, in which its provisions are discussed, and Lord Aberdeen’s objections obviated by explanations and construction. He requires, however, a communication in writing, and our minister makes it under date of the twelfth of July ; in which he characterizes the Act as conceding all the power, etc., as before stated, and says, that it “has been framed without any pledge, prospective or otherwise, from Great Britain.” Thus confessing, that he had obtained not one word of promise by all his solicitations. He “repeats his deep interest,” and “renewed hope,” speaks of the “grace” of a prompt and frank reply, and of “the duty of His

Majesty's Government to quiet the public expectations, and to mitigate, as far as may be in its power, the injurious effects, upon the United States, of an unfavorable reply."

On the seventeenth of August, Lord Aberdeen deigns to respond. Passing over the previous communications of Mr. McLane, he comes to that of July, as containing "more satisfactory propositions;" and most provokingly repeats certain parts of the language of our minister, thus:

"Of the character and effect of the recent measure of the American Congress, Mr. McLane observes, that 'it concedes, in its terms, all the power in the regulation of the colonial trade, and authorizes the President to confer on British subjects all those privileges, as well in the circuitous as the direct voyage, which Great Britain has at any time demanded or desired.'"

"In this declaration, the undersigned is happy to observe the same spirit and disposition which dictated Mr. McLane's former communications, wherein he announced the readiness and desire of the American Government 'to comply with the conditions of the act of Parliament of 1826,' and also, that the claims advanced in justification of the omission of the United States to embrace the offers of this country, have been abandoned by those who urged them, and have received no sanction from the people of the United States."

Can any American read such language from a foreigner, but with indignant feelings? Would it be tolerated were it not the mere echo of the words of our own agent? Was the language of that British envoy, Copenhagen-Jackson, for which our Government repelled all further intercourse with him, so insulting as this?

Lord Aberdeen proceeds, there are passages in the bill "in which it seems at least doubtful, whether the practical construction" would be such as Mr. McLane is ready to affix. He then distinctly recapitulates all the explanations, or, as I deem some of them, modifications of the act, which had been previously agreed upon, and in conclusion declares—what? That the ports are open, the order in council rescinded, or, that it will be done forthwith!—Oh no. We must open our ports first. He will not trust our envoy—the President must give a previous practical construction, by issuing his Proclamation. And he did so. Lord Aberdeen seems to have practised the jealousy and caution of the



Yorkshire servant, in the farce, who, being flattered, solicited and urged, by a hungry man for a meal, replies, "Either I mun trust you for t' money, or you mun trust me for t' breakfast. Now, as you seem to be vastly taken wi' me, an' I a'nt at all taken wi' you, you'd better gi' me t' money, you see, an' trust me for t' breakfast."

The concluding congratulatory epistle of Mr. Van Buren to Mr. McLane, communicating the President's Proclamation, closes the scene as an appropriate epilogue, a suitable finale.

After all this neglect, hauteur, superciliousness and grasping, over-reaching selfishness on their part, in return for solicitation, humiliation and prodigal concession on ours; after placing an act of the American Congress at the foot of a British Minister, to be trampled upon and violated; our own envoy is instructed to express to that Government the "great satisfaction," "the President has derived from the candor and liberality which have characterized the conduct of His Majesty's Ministers throughout the negotiation, and particularly in not suffering the inadvertencies of our legislation, attributable to the haste and confusion of the closing scenes of the session, to defeat and delay the adjustment," etc., etc.

And subsequently, after the "pleasing duty" of communicating to Mr. McLane, the President's "entire satisfaction," Mr. Van Buren concludes by saying, "I beg leave to add the expression of my own unqualified approbation of all your acts since the commencement of your mission."

Mr. President, to what primary cause can be ascribed these disastrous results? To what fountain shall we trace these waters of bitterness? Whence this infatuation, this suicidal delusion, which seems to have controlled the councils of the nation? It is the demon of party which now for the first time has crossed the Atlantic to present our domestic division to a foreign court.

A clamor in relation to the colonial trade has been raised against the late administration as one of the means of driving them from power; and their successors, to give some color of a redemption of previous promises for political ends, deemed it necessary that, at any rate, something should be done, to be trumpeted by partisans. Even the President has said, in answer to a resolution which I had some time since the honor to introduce upon this subject, that one of the reasons which stimulated his negotiation



was the "influence it was believed to have had in the elections which terminated in the change of administration."

It is fabled that the wild horse in his native freedom sought the aid of man against his opponent, the stag; he submitted to the bit and the saddle; the stag was hunted down; but the man was forever seated upon his back.

This administration has already felt the spur and the reins of the rider; and endeavored, but in vain, to dismount him. This, their condition, is fully exhibited in their correspondence, just now received, in answer to a resolution of the Senate. It has seen the light, for the first time, since I began to address you. We there learn that when the grateful and congratulatory epistle of our Secretary of State had but just reached the British shores; while yet the trumpet of triumph and the pæans of praise were resounding through the land; our envoy was raising his voice in alarm and protestation against the injurious exercise of the very power which he had just conceded.

The British order in council was issued on the sixth of November, 1830, and, before the expiration of the same month, our minister is seen endeavoring, by a long and elaborate communication, to arrest the progress of a bill in Parliament for regulating colonial duties. He especially and earnestly protested against that principle of the bill which discriminated between imposts in the direct and circuitous routes in order to favor British navigation. His complaints were unheeded. The measure was not then consummated, by reason of a change of ministry; but he was informed that one of similar character would be perfected at the next Parliament. It was so. It passed on the 22d of April, 1831. It involves the same objectionable principle, against which our negotiator protested in the November preceding, and in which he was subsequently instructed to persevere, by the Secretary of State. Indeed, it carried that principle still further in practical extent, by making the discriminations in favor of the indirect voyage greater than the former bill. Against this, too, Mr. McLane protested in vain, as contrary to his expectation under the arrangement. He declared that "no equality in any part of the trade could be predicted of its provisions." He even began at last to use the language of demand—he says: "I distinctly required that the bill should be conformed to the terms and spirit of the agreement concluded with Lord Aberdeen." But the British answered, "that

there was a reservation in respect to the schedule of duties annexed to the act of 1825." This was conclusive. It admitted of no replication. The bill was not changed. It became a law. It has been submitted to in silence by our Executive, and the trade is now subjected to all its injurious enactments. Not only submitted to ; but, in December last, upon the assembling of this Congress, "the President of the United States transmitted his annual message, purporting to give information of the condition of our country and its important interests. He had then before him all these communications of his favorite Secretary, and approved negotiator—the protestation against this objectional principle—the distinct requisition of a modification of the bill—the unequivocal confession that it was destructive of all equality in trade ; and the obnoxious and denounced bill itself. Did he send them to us ? Did he let us know of their existence ? No, sir ; but, on the contrary, referred to "arrangements with Great Britain, which had been productive of mutual good feeling and amicable relations between the two countries." He told us, one of these arrangements is that relating to the colonial trade which was communicated to Congress at the last session ; and although the short period during which it has been in force, will not enable me to form an accurate judgment of its operation ; there is every reason to believe that it will prove highly beneficial."

I make no commentary upon the attitude in which the chief magistrate of this republican country has thus been placed by those who influence his counsels. I leave it, as I do the whole subject, to the calm consideration and deliberate judgment of the Senate. I have discharged my duty to my constituents and the country. I have done no more—I meant to do no less. I have studiously endeavored to be correct. If in any respect I have fallen into error I have the satisfaction to know that the means of correction are accessible to every member, and that they will be zealously and ably improved.



NORTHEASTERN BOUNDARY.





## NORTHEASTERN BOUNDARY.

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PRIOR to the Treaty of Ghent, a controversy had arisen, as to the Boundary Line between the United States and the British Provinces of New Brunswick and Nova Scotia. By that Treaty, it was provided that this question should be submitted to arbitration. A Convention was subsequently entered into, appointing the King of the Netherlands as the Arbiter, and the matter was duly submitted to him. He made a Report, but it was not an award, declaring where the true line described in the Treaty of 1783 was, but a recommendation to the parties of a new line, as designated in the Report. The subject was submitted by the President to the Senate, for its advice. The people of Maine, whose rights and territorial limits were at stake, were very deeply excited. When the subject came up for consideration, Mr. Sprague addressed the Senate as follows.



## NORTHEASTERN BOUNDARY.

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IN SENATE, JULY 10, 1832.

THE following Resolution was reported by the Committee on Foreign Affairs:

*Resolved*, That the Senate advise the President to express to His Majesty, the King of the Netherlands, the assent of the United States to the determination made by him, and consent to the execution of the same.

The foregoing Resolution being under consideration, Mr. Sprague said :

MR. PRESIDENT: Notwithstanding the rights and the interests of Maine are so deeply involved, and my own solicitude is so excited upon this subject, I shall, nevertheless, yield to the admonitions to brevity which are presented by the period of the session, and the hour of the day. Suppressing a strong desire thoroughly to improve the whole wide field of discussion, I shall compress my remarks, even upon the topics introduced by the report of the Committee on Foreign Relations, and the Speech of its Chairman. The immediate question is, Shall a majority of two-thirds be required to pass the advisory resolution reported by the committee? The President has asked our advice upon the question of submission to the opinion of the arbiter. Why did he come to this body? Only because we, by the constitution, are his advisers in relation to the formation of compacts with foreign nations; and constitute a part of the treaty-making power, acting by a majority of two-thirds. In any other character or capacity, he might as well demand the opinion of the House of Representa-

tives, or any other aggregation of individuals. If, then, we are to respond as a part of the treaty-making power, must we not do it by the requisite constitutional majority? The honorable and able member from Virginia (Mr. Tazewell) tells us that, when the conjoint action of the other House was requisite, as in legislation, a mere majority of the Senate only was necessary; but, when acting without the check of the other branch, the majority of two-thirds was substituted as a restraint upon ourselves. He had reference, I presume, not to Executive nominations to office, but to all opinions in relation to our foreign intercourse. Upon his own principles, then, should not two-thirds be now required in reference to a public treaty, when there is to be no concurrence of the other House,—no check or restraint by them upon the action of the Senate?

The gentleman also declares his opinion that the spirit and design of the constitution demand that the Senate should be consulted, both before and after the formation of a treaty. If so, do they not act, in both cases, under the same requisition, and by the same proportional numbers? Would it not be preposterous that the Senate, by a majority, should advise the making of a compact, and, when the same is subsequently submitted for their approval, it should be rejected for the want of two-thirds, the same members voting in the same manner, without the change of a yea or a nay? What a disjointed spectacle of incongruity would that present to foreign nations!

The Senator adverted to the early practice of the Executive in the halcyon days of the first President, but it did not show a single precedent of a resolution of advice by a simple majority; while my colleague cited yesterday two instances of such action by the requisite two-thirds, and I now add another, on the twentieth of January, 1792, in relation to an increase of annuity to the Seneca tribe of Indians. Principle and precedent, therefore, both demand that the proposed amendment should be adopted.

The chairman of the committee (Mr. Tazewell) says, that his first opinion was, that the Senate had no power to act upon the subject, but that the reference of the resolutions which I had the honor to introduce conferred authority to give an advisory opinion. Although such a consequence could not have been anticipated by any one, and few possess ingenuity enough to deduce it, yet, had it been foreseen, so far from constituting an objection, it

would, in the state of the question and opinions of the Senate as then existing, have presented an additional inducement to their introduction, as the most probable means of preventing a catastrophe which I deprecate—the acceptance of, and submission to, this miscalled award.

How the offering a resolution, not adopted, but referred to a committee for inquiry, should give to the Senate jurisdiction on a subject not otherwise within the scope of its legitimate powers, is not easily comprehended. Can the Senate, by such a process, by simply raising a committee of inquiry, extend its powers, and bring every thing within the range of its constitutional action?

But I hasten directly to the paramount question. Is this award or opinion binding upon the United States? And is their faith pledged to adopt the boundary therein designated? And here I cannot withhold my cordial thanks to the gentleman from Kentucky (Mr Clay) for the able and convincing argument which he yesterday addressed to the Senate, against the acceptance of this award, and in defence of the rights, the soil, and the citizens of Maine. The objection arising from the essential changes in the sovereign character of the arbiter—the disruption and loss of more than half of his empire, being thrown, by political convulsions, a dependent upon Great Britain, not only for the demarcation of the boundaries of his own kingdom, but even for the preservation of the remnant of his power, has been, together with other topics, so ably discussed by him, that I may well, in the discharge of my duty, abstain from attempting to strengthen the impression which he has produced. But there is one point, and that the principal, leading, decisive objection, to which I feel myself bound to solicit your further indulgent attention. It is, that there has been no decision of the question referred; the award, if such it is to be called, the advice, is not within the submission.

That this, if found to be true, would exonerate the United States from all obligation of submission, must be universally conceded. No independent nation can be required to adopt the recommendation of any sovereign, except so far as bound by compact; and, if it be agreed to submit to arbitrament, a distinct, specific question, and the arbiter, from inability or disinclination, makes no decision, but gratuitously assumes the office of an adviser, with which he was never invested, and volunteers a recommendation upon a subject in relation to which his opinion was never



asked, surely the parties, if they do not repel the assumption as offensive, may well decline receiving it as obligatory.

Is the award within the terms or meaning of the submission? No one has yet insisted that it is. But, on the contrary, the Report of the Committee on Foreign Relations, in effect, concedes that it is not. Declining to discuss the question distinctly, the committee say that they are aware that there are many reasons which, to the minds of our own citizens at least, may appear strong to induce the opinion that it is no decision, and may therefore be legitimately disregarded. And again, toward the conclusion, they remark: "Although it may, perhaps, be truly said that the United States are not bound by this award, as such, yet it will be considered by all the civilized world," etc.

The chairman of the committee, in his speech yesterday, did not undertake to say directly, that there had been any decision of the matter referred; but, following the track of the report, rather conceded that there had not—insisting, however, that we ought to acquiesce from motives of public policy, and to conciliate the favorable opinion of other nations.

Sir, it is susceptible of demonstration that there has been no decision of the question referred. The arbitrament was more immediately governed by the convention of 1827, made between the United States and Great Britain, for the sole purpose of executing the fifth article of the Treaty of Ghent, which article was designed merely to carry into effect the treaty of peace of 1783, by ascertaining where, upon the surface of the earth, was that point of the highlands, due north from the source of the St. Croix river, designated in that original treaty as the northwest angle of Nova Scotia; and by surveying and marking two lines from that point to fixed monuments. To begin at the fountain, then, we must recur to the description of boundary in the original treaty which acknowledges the independence of the United States. Its language, so far as pertinent to the present investigation, is:

"The following are, and shall be, their (the United States) boundaries, to wit: From the north-west angle of Nova Scotia, viz., that angle which is formed by a line drawn due north from the source of the St. Croix river to the highlands along the said highlands, which divide those rivers that empty themselves into the river St. Lawrence from those which fall into the Atlantic Ocean, to the northwesternmost head of Connecticut river; . . . east, by a line to be drawn along the middle of the river St. Croix, from its mouth, in

the Bay of Fundy, to its source ; and from its source directly north to the aforesaid highlands, which divide the rivers that fall into the Atlantic Ocean from those that fall into the river St. Lawrence."

The source of the St. Croix river was ascertained in the year 1798, and has ever since been designated by a monument then established and marked by the mutual agreement of both nations.

From that spot the boundary was to be "due north ;" and the only question which could arise was, Where is the termination of that north line ?—which point being ascertained, all that would remain was the mere mechanical and mathematical process of surveying and marking lines between fixed monuments. The location of that point is described and defined with the utmost clearness and precision, in the treaty of 1783. It is at "the highlands ;" the due north line is to be drawn "to the highlands," and there stop. And of that *terminus* is the north-west angle of Nova Scotia ; and thence another line was to be drawn along those highlands to the northwesternmost head of Connecticut river. Now what question does the treaty of Ghent mention, or suppose to exist ? What was to be ascertained ?

The Fifth Article states it with great perspicuity :

"Whereas neither that point of the highlands lying due north from the source of the river St. Croix, and designated in the former treaty of peace between the two Powers as the north-west angle of Nova Scotia, nor, etc. . . . has yet been ascertained ; and whereas that part of the boundary line . . . from the source of the river St. Croix directly north, to the abovementioned north-west angle of Nova Scotia, thence along the said highlands which divide, etc., has not yet been surveyed—."

Therefore provision is made for ascertaining that single point, and surveying those lines by commissioners. They were appointed accordingly ; but, differing in opinion, made their several reports to their respective governments. Pursuant to the Fifth Article in the Treaty of Ghent, a reference to an arbiter then became necessary, and the convention of 1827 succeeded in regulating and defining the manner of executing this requisition. The First Article provided that the points of difference which had arisen should be submitted to an arbiter, to decide on such points of difference, in accordance to the Treaty of Ghent, and that the parties should make their several and separate statements of the case to be laid before the arbiter. This was done, and there was no discrepancy between

them as to the matters in dispute which had arisen, and upon which a decision was required. The American statement presents the point in difference, so far as relates to the present controversy, thus :

“1st. The north-west angle of Nova Scotia, and the boundary line contemplated by the treaty of 1783, extending from that angle, along certain highlands, to the northwesternmost head of Connecticut river.”

And, in the British Statement, it is expressed in the following language :

“1st. The parties differ respecting the point designated in the treaties as the north-west angle of Nova Scotia ; and respecting the highlands along which the line of boundary is to be carried, which is destined to divide the rivers that empty themselves into the river St. Lawrence from those which fall into the Atlantic Ocean.”

Here, then, we have the question to be decided, clearly, distinctly, and unequivocally defined and described by both parties, in the official statements upon which, by the express provisions of the treaty, the award was to be rendered.

Where is the north-west angle of Nova Scotia ? Has that question been answered by the award ? So far from it, that the arbiter not only does not profess to determine, but unequivocally declines it. After some reasoning upon the subject, he says :

“Consequently, the north-west angle of Nova Scotia, here alluded to, having been unknown in 1783, is to be considered as a petition of principle, (*petition de principe*,) affording no basis for a decision,” etc.

The inquiry respecting that angle has with him no basis of a decision, although that was the precise question propounded. And subsequently he says that he considers the question “divested of the inconclusive arguments drawn from the nature, more or less hilly, of the ground, from the ancient delimitation of the provinces, from the north-west angle of Nova Scotia, and—,” etc.

In conclusion, he declares :

“The arguments adduced on either side, and the documents exhibited in respect of them, cannot be considered as sufficiently preponderating to determine a preference in favor of one of the two lines respectively claimed by the high interested parties as the boundaries of their possessions, from

the source of the river St. Croix to the northwesternmost head of Connecticut river; and that the nature of the difference, and the vague and not sufficiently determinate stipulations of the treaty of 1783 do not permit to adjudge either of those lines to one of the said parties, without wounding the principles of law and equity with regard to the other."

And he therefore tenders the following advisory opinion :

"That it shall be suitable (*Il conveniendra*) to adopt, as the boundary of the two States, a line drawn due north from the source of the river St. Croix to the point where it intersects the middle of the tholweg\* of the river St. John; thence, the middle of the tholweg of that river, ascending it to the point where the river St. Francis empties itself into the river St. John; thence the middle of the tholweg of the river St. Francis, ascending it, to the source of its southwesternmost branch, which source we indicate on the map A by the letter X, authenticated by the signature of our Minister of Foreign Affairs; thence, a line drawn due west, to the point where it unites with the line claimed by the United States of America, and delineated on the map A; thence, said line, to the point at which, according to said map, it coincides with that claimed by Great Britain; and thence," etc.

I insist, therefore, that the arbiter did not intend or profess to decide the questions submitted; but, putting them entirely aside, proceeds to recommend the substitution of a new description of boundary. The language is :

"It will be suitable (*Il conveniendra*) [convenient] to adopt or accept, as the boundary," etc.

But even if he had designed this to be a determination within the submission, it is nevertheless palpable that it is not. The interrogatory was, where, according to the treaty of 1783, is the north-western angle of Nova Scotia, and the line thence along the highlands? That angle of Nova Scotia is described and defined by the treaty of 1783, and again by the treaty of Ghent, to be on the highlands, and at the termination of a due north line from the source of the St. Croix. Where does the arbiter make that line terminate? In the centre of the St. John's river! And there must be his highlands, if he designed to locate that angle. But the absurdity does not cease here. After striking the angle of

\* Tholweg, a German compound word: thol, valley; weg, way. It means here the deepest channel of the river.—[Translator.



Nova Scotia, the only line to be drawn by the treaty is "along the highlands;" but the course of the arbiter is along the deepest channel of the river St. John, by all its meanderings, till he reaches a branch called the St. Francis, which he ascends by its deepest channel to its southwesternmost ramification, and thence to its source. And upon the hypothesis that he designed to decide this to be the treaty boundary, he must have declared that the highlands are in the deepest of the waters of the rivers St. John and St. Francis! But there is yet a further difficulty. By the treaty there can be but two lines of boundary; one due north, and the other along the highlands; the angle of Nova Scotia being at their point of intersection. The (due) north course of the king of the Netherlands ends at the centre of the St. John; his next line is by the thread of that river and its branches, sometimes running northwestwardly, sometimes southwestwardly, and at others in a different direction to its source; but where then? The treaty allows only a north course; but he arbitrarily directs it to be due west to the highlands, and thence along that ridge.

Now, sir, to accuse the king of the Netherlands of intending to impose this upon the United States as the true original boundary, would be doing him gross injustice; it involves the supposition that he could be guilty of a falsehood so glaring as to be an insult to the intelligence of this nation; it would doom him to the inevitable condemnation of fatuity or corruption. Sir, there is no man whose intellect rises above the grade of idiocy, who can, after a due comparison, pronounce that the delineation by the arbiter is the same with that of the treaty of peace of 1783. No man ever has said so, and I venture to assert that no one ever will. Sir, if the arbiter had professed so to decide, fraud and falsehood would have been stamped upon the front of his award. I cheerfully and entirely exonerate him from all such charge. He is obnoxious to no such imputation. So far from it that he declares that he does not and cannot ascertain the treaty boundary, but recommends a substitute. The Committee on Foreign Relations do not contend that he has decided that question; and, what is more, the British Government themselves concede that he has not. This is found in the official communication of the diplomatic agent, Mr. Bankhead, made to our Secretary of State on the twentieth of December last, urging our submission to the award, and in which he uses the following language:



“Commissioners, since the treaty of 1783, have found it impossible to reconcile the description of boundary contained in that treaty with the real features of the country, ascertained by actual survey; and the hopelessness of establishing absolutely, in favor of either party, the point which has thus, since the year 1783, been the subject of controversy between them, has now received a new confirmation by the solemn decision of an arbitrator chosen by both parties, who has pronounced it to be incapable of being established in accordance with the terms of the original treaty, that treaty having been drawn up in ignorance of the real features of the country which it professed to describe. Seeing, then, that there cannot be a settlement of the claims of either party in strict accordance with the treaty of 1783, what course would remain, even if the choice were now to be made, but that which was agreed upon by the negotiators of the treaty of Ghent, viz., the adjustment of the differences between the two Governments by means of an arbitrator? And how unreasonable would it be to object to such an adjustment, because it aimed at settling by compromise differences pronounced to be otherwise irreconcilable!”

The errors involved in this extract, I may, perhaps, notice hereafter. But, at present, I am concerned only to occupy the two impregnable and conceded positions: 1st. That the arbiter has not decided the question submitted. 2d. That the line by him described is variant from the true boundary of the treaty. These being known and fundamental truths in this discussion, upon what ground is it urged that we should acquiesce in the award? From reasons of public policy, and a regard to the opinions of the foreign world, say the committee.

But, before you act from considerations of expediency, pause awhile upon your constitutional powers and obligations. This is no award. It is not within the submission. It is not in pursuance of the treaty. It is not in execution of its provisions. It is the recommendation of a new delineation, against which the State of Maine has solemnly protested.

Sir, it is not within the constitutional competency of this Government to assign new boundaries, known to be such, to any one of the States, whether to increase or diminish the quantum of its territory. The extent of our authority is to ascertain and define their true, original, exterior limits; and the United States could not, and have not attempted to confer upon an arbiter any power to prescribe or advise the institution of new boundaries. In this, all are agreed; no one controverts that such is the constitutional limitation of our authority. It is said, indeed, that, in the per-

formance of this duty, error may be committed, and a portion of a State be unknowingly cut off. But the possibility of mistake, in the honest endeavor to determine the truth, does not authorize the wanton, wilful departure from it by the adoption of a boundary known and acknowledged to be variant from the original. We say, then, that the impassable prohibitions of the Constitution present an insuperable barrier to the adoption of the new lines of demarcation recommended by the arbiter, without the previous consent of the State of Maine. This she has never yielded; but, on the contrary, entered her solemn protestation. Here, then, we might rest upon the ground of irresistible, constitutional right. But, nevertheless, considerations of expediency are invoked. Although we may convince ourselves, say the committee, yet will our arguments satisfy others? Will not the world adjudge us guilty of a violation of our national faith?

Let us look this argument in the face. We are under no obligations to submit to this award, but we are constrained to decline it by the solemn provisions of the fundamental compact of Government. Our faith is pledged to the State to preserve inviolate the integrity of its soil, and to vindicate the sacredness of the persons of its inhabitants. And this argument of policy would persuade us to sacrifice our duty to a State from an apprehension that other nations may, through ignorance, believe us to be faithless; to incur the actual guilt of perfidy for fear of the mere appearance of it in foreign eyes. But even that apprehension is without foundation. This subject will be understood by the European world; and, if we would not sink in their estimation, we must exhibit that intelligence which is not to be betrayed by shallow artifice, and that decision and energy which repel encroachment. Great Britain herself will more highly respect a refusal than our submission. But the opinions of foreign nations are of comparatively little moment. The dangers to our political fabric are from within, from the disaffection of the members of this Union. From the pressure of external force, we have nothing to apprehend. It will but compress and consolidate our Union. Internal disaffection and mutual repulsion are the fountains of our fears. Better incur the odium of the world, than bring home to the councils of a single member of this Union a well founded conviction of violated duty and broken faith.

Again, we are asked, if we reject this award, how is this contro-

versy to be adjusted? And, to magnify this difficulty, we are told that this dispute as to the New England boundary reaches far back into the early history of this country, even to the period when France and England were contending for the extension of their respective adjacent provinces. That this dispute is of ancient date, I strenuously controvert. I will show it to be of very recent origin. That a controversy existed between Great Britain and France, when the latter was the sovereign of Canada, I readily admit. But all the right and title of the latter were ceded to Great Britain by the treaty of Paris of 1763, who, having thus become the undisputed sovereign of all the adjacent provinces, by her own unquestionable powers, fixed and defined their boundaries by the royal proclamation of October, 1763, which established the Government of Quebec, now Lower Canada. This solemn act of the common sovereign terminated forever all preëxisting disputes, by authoritatively prescribing and defining the divisional lines of Massachusetts, Nova Scotia, and Canada. The demarcation thus established was adopted and confirmed by the act of Parliament of 1779, and inserted in our treaty of independence of 1783. After this, a new question arose,—which, of several rivers, was the true St. Croix. This was definitively settled, and the monument at its source established in 1798, by commissioners of the two countries, appointed pursuant to the convention of 1794, which put to rest all then existing doubts as to the true location of our Northeastern Boundary. No question, or ground of controversy, was supposed to remain. It would have been strange, indeed, that a treaty-making provision for a commission to terminate doubts as to that boundary should not have embraced all existing controversies. It did so; and the commissioners determined finally and conclusively all matters submitted. This is historically and certainly known. Even the Report of the Committee on Foreign Relations acknowledges and asserts it, declaring that “this decision settled definitively the uncertain *terminus a quo* the Northern Boundary of the United States was to run; and, as no difference then existed between the two Powers as to the course or direction of this line of boundary, the *terminus ad quem* was also supposed to be fixed.”

With what propriety or justice are those old, obsolete, long-settled questions now invoked for the purpose of aggravating the difficulty of the present controversy, with which they have no connexion, which had no existence until long after they had passed

away, which indeed has been brought into being since the treaty of Ghent of 1814?

What is the precise point now in contestation? It is, "Where are the highlands which divide those rivers that empty themselves into the river St. Lawrence from those which fall into the Atlantic Ocean?" The treaty of independence established the boundary to be a line due north from the source of the St. Croix to those highlands, and thence, along that elevation, to the head of Connecticut river. The source of St. Croix having been definitively settled, it is now contested where are these highlands of which the north line is to terminate, and along which the next is to be drawn.

This, I repeat, was never made a question, until subsequent to the treaty of Ghent. Up to that time, even after the year 1763, the course and location of that elevation was as well known, as incontestably established, as universally acknowledged, as any great geographical feature of the country—I might say, as to the St. Lawrence river itself; and no other range or tract had ever been so claimed or denominated.

I am aware, sir, that this is strong and confident language; and presents the recent British pretension as not only utterly baseless, but of consummate effrontery. Permit me very concisely to advert to some irrefragable proofs. That range of highlands is first introduced, as a boundary, in the proclamation of 1763, establishing the province of Quebec, (Canada,) the southern limit being described as follows:

"Crossing the river St. Lawrence and the lake Champlain in forty-five degrees of north latitude, passes along the highlands which divide the rivers that empty themselves into the said river St. Lawrence from those which fall into the sea, and also along the north coast of the Bay des Chaleurs."

South of the river St. Lawrence, and nearly parallel thereto, and at an average distance of between twenty and thirty miles, is a range of broken highlands, extending from the source of the Connecticut river, northeastwardly, toward Cape Rosieres, from which are turned, on the one hand, those rivers entering into the St. Lawrence, and, on the other, those which fall into the Atlantic Ocean, viz., the Androscoggin, the Kennebeck, the Penobscot, the St. John, and the Ristigouche. And, accompanying this proclamation, in the British Annual Register of the same year, is



an original map, carefully prepared for the express purpose of accurately delineating the boundaries, and in which the highlands are prominently laid down as then and since known and understood, and in precise accordance with the claim of the United States.

Nor is this all. Other British maps, and those frequent and numerous, from authentic and official sources, were compiled and published ; in all of which, without one exception, the highlands, where mentioned, are delineated as I have before described, in exact coincidence with our claim ; while, on the other hand, not one presented the now pretended rival range newly created south of the St. John's.

Sir, permit me to enumerate the titles of some of them now in my hand, and to which I invite the particular examination of every Senator, viz. :

1763.—A New Map of the British Dominions in North America, with the Limits of the Governments annexed thereto by the late Treaty of Peace, and settled by Proclamation, October 7th, 1763. Engraved by T. Kitchin, Geographer, for the Annual Register of 1763.

1769.—A New and Accurate Map of the British Dominions in America, according to the Treaty of 1763, divided into the Several Provinces and Jurisdictions. Projected upon the best Authorities and Astronomical Observations, by Thomas Kitchin, Geographer. Engraved for Knox's History of the War in America.

1765.—A Map of North America, by J. Palairret, with Considerable Alterations and Improvements from D'Anville, Mitchell, and Bellin, by L. Delarochette.

1766.—A Map of the British Dominions in North America, as settled by the late Treaty of Peace. 1763. J. Ridge.

1770.—British Empire in North America, with the West India Isles, Annexed to Wynne's History.

1771.—A New and Accurate Map of North America, from the famous Mr. D'Anville, etc. Also the New Divisions according to the late Treaty of Peace. By Peter Bell, Geographer.

1772.—A Map of the British Dominions in North America, according to the Treaty of 1763. By Peter Bell, Geographer.

1775.—North America and the West Indies, with the Opposite Coasts of Europe and Africa. Published according to Act of Parliament.

1776.—A New Map of the Province of Quebec, according to the Royal Proclamation of the Seventh of October, 1763, from the French Surveys, connected with those made after the War by Captain Carver, and other Officers in His Majesty's service. Sayer and Bennett.



1776.—A General Map of the Northern British Colonies in America, which comprehends the Province of Quebec, the Government of Newfoundland, Nova Scotia, New England and New York, from the Maps published by the Admiralty and Board of Trade, etc.

1777.—A New and Correct Map of North America, with the West India Islands, divided according to the last Treaty of Peace, concluded at Paris Tenth February, 1763, wherein are particularly distinguished the Several Provinces and Colonies which compose the British Empire, laid down according to the Latest Surveys, and corrected from the Original Materials of Governor Pownall, Member of Parliament.

1777.—The British Colonies in North America. By William Faden.

1778.—A New Map of North America, from the Latest Discoveries. Engraved for Carver's Travels.

And during these unbroken and unvarying geographical and topographical descriptions, an act of Parliament passed in 1774, adopting and confirming the same boundaries, in the same language as the original proclamation. The commissions of the royal governors, prescribing the extent of their jurisdiction, and all public and official documents during the twenty years which preceded the treaty of independence, contained the same description. When, therefore, it was embodied in that solemn instrument, can it be doubted that the parties used the terms in the same acceptation in which they had always before been received ; meant thereby what had always before been intended ; understood, by the highlands designated, the same range which had before been constantly known, described, acknowledged, and invariably received as such ? There is no possibility of doubt. But the proof still proceeds. The definitive treaty of peace was formed in 1783 ; but the preliminary articles were signed in November, 1782 ; and, in February following, there was a zealous and animated debate thereon in Parliament, in which it was strenuously objected, on the one hand, and not denied on the other, that, by the boundaries agreed, the territory of the United States would intervene, and cut off the communication between the capitals of Quebec and Halifax ; that is, would embrace the very territory, north of the St. John, which is now in contestation. And accompanying those interesting printed debates upon that important subject, is also a British map, made for the express purpose of illustrating the arguments by presenting the true boundaries according to the preliminary articles, and in which the highlands are delineated and located as they had

always previously been, and as we still insist they should be. And, posterior to these debates and this publication, the definitive treaty of peace was signed, adopting the preliminary articles of peace in *hæc verba*, and the delineations precisely as therein described.

The unvarying current of British authorities does not stop here. Maps and documents still continued to be multiplied, all of the same character, and in full confirmation of the same geographical location of those dividing highlands. Among them, I invite particular reference to the following, which I have now before me, subject to the scrutiny of every member.

1783, February 9.—The United States of America, with the British Possessions of Canada, Nova Scotia, and of Newfoundland, etc., according to the Preliminary Articles of Peace, signed at Versailles the twentieth of January, 1783. R. Sayer and J. Bennett.

1783.—A New and Correct Map of North America, in which the Places of the Principal Engagements during the Present War are accurately inserted, and the Boundaries, as settled by Treaty in 1783, clearly marked. J. Drew.

1783, April 3.—The United States of America, laid down from the Best Authorities, agreeably to the Peace of 1783. By John Wallis. London.

1783, July 16.—An Accurate Map of the United States of America, with Part of the Surrounding Provinces, agreeably to the Treaty of Peace of 1783. By John Cary. London.

1782.—The United States of North America, with the British and Spanish Territories, according to the Treaty. By William Faden.

1783, October 2.—A New Map of the United States of America, with the British America, with the British Dominions on that Continent, etc. By Samuel Dunn, Mathematician. Improved from the Surveys of Captain Carver.

Bowles' New Four-Sheet Map of North America and the West Indies, exhibiting the Extent and Boundaries of the United States, the British Dominions, etc. The whole compiled and laid down from the Best Authorities. London.

1784.—Bowles' New Pocket Map of the United States of America, the British Possessions of Canada, Nova Scotia, and Newfoundland, etc., as settled by the Preliminary Articles of Peace signed at Versailles, the 20th January, 1783. London.

1784.—A New and Correct Map of North America, with the West India Islands, divided according to the Last Treaty of Peace, concluded at Paris the 20th January, 1783, wherein are particularly distinguished

the Thirteen Provinces which compose the United States of North America. By Matthew Albert and George Frederick Lotter.

1784.—Brion de la Tour's *Etats Unis d'Amerique*, etc. Paris.

1783.—A New Map of North America, with the West India Islands, divided according to the Preliminary Articles of Peace, signed at Versailles, 20th January, 1783, wherein are particularly distinguished the United States, and the several Provinces, Governments, etc., which compose the British Dominions, and corrected from the original Materials of Governor Pownall, Member of Parliament.

1794.—Same Map. London.

1794.—A New Map of the whole Continent of America, divided into North and South, and West Indies, wherein are exactly described the United States of North America, as well as the several European Possessions, according to the Preliminaries of Peace signed at Versailles, January 20th, 1783, etc. By Laurie and Whittle. London.

1794.—A New Map of North America, agreeably to the Latest Discoveries. London.

1794.—A Map of the United States of America, with Part of the Adjoining Provinces. From the Latest Authorities.

1795.—A Map of North America and the West Indies. By L. S. De La Rochette. London.

1800.—America, divided into North and South, with their several Subdivisions, and the Newest Discoveries. By Laurie and Whittle. London.

1798—D. F. Saltzmann's *Maine*. Hamburgh, Carl Ernst Bohn.

1814.—Map of the British Colonies and the United States of North America. J. Lodge.

I have cited no American maps, because I choose to exhibit the unvarying testimony of our opponents themselves in continued support of our claim.

The map by Osgood Cotton, however, in 1795, engraved for Sullivan's *History of Maine*, is worthy of attention for its clear delineation of the highlands.

This brings us down to the year 1814, the date of the treaty of Ghent. Up to that period, our adversaries never pretended that there was any other Northern Boundary than that which we now assert. In negotiating that treaty, the British Commissioners requested that the United States should cede to Great Britain the Territory now in dispute, for an equivalent which they were ready to give, in order to obtain a direct communication between their provincial capitals. The American Commissioners very properly

replied that the territory was a part of the State of Massachusetts, and no transfer could be made by the United States ; that it was not to be admitted even as a matter of discussion. At the request of the other party, they assented to an article providing for the ascertainment of a certain angle, and the running certain lines ; but even that, notwithstanding the erroneous impressions which have prevailed, does not recognize the existence of any doubt or dispute as to what were the highlands, or their true location, but only that a certain point in that known, acknowledged range had not then been marked upon the surface of the earth. The language is very precise, "Whereas that point of the highlands," etc.

The treaty contemplated that the St. Croix river was known ; that the highlands were known ; but that the precise point of that elevation, at which the north line should terminate, had not been fixed and marked, and that there might be, from the formation of country, and with a reference to a division of the rivers, a doubt as to the extent, perhaps, of five, ten, or even twenty miles. To determine that, and that only, the treaty provided for the appointment of commissioners, and a contingent arbitrament.

Under that commission, the British, for the first time, put forth the pretension that there was another range of highlands south of the St. John's river, beginning at Mars hill, a ridge never before known ; recognized in no public document ; delineated in no map ; found in no topographical description ; having no historical existence ; from which are no rivers flowing into the St. Lawrence ; and which was never in the contemplation of either of the parties. Had the American agent well understood his business, and discharged his duty, he should have met this preposterous and insulting pretension, *in limine*, by a stern refusal to permit it to be made even matter of discussion. He should have told His Majesty's agent, "The treaty of Ghent, which controls our action, provides only for ascertaining a particular point in the highlands of the treaty of 1782 ; but, as to those highlands themselves, it neither admits nor creates any doubt. They were known, and their location established and described, and invariably admitted for twenty years preceding the treaty of independence. That instrument adopted them ; they are incorporated into it by the common consent and mutual understanding of the parties as one of its essential ingredients ; they have ever since been known, described, and recognized as such ; for more than fifty years, they



have maintained their position on the southern bank of the St. Lawrence, undisputed, alone, without a rival. I will not now permit them to be questioned. I will not tolerate an attempt to substitute a newly created imaginary range, for that which the parties intended by the treaty. The point in that elevation designated as the northwest angle of Nova Scotia, I am willing to ascertain. But I proceed to no other range. I go in search of no other highlands."

Sir, if our agent had held this language, and acted decisively in accordance with it, the British never would have insisted upon their absurd assumption. But he permitted it to be discussed. The British commissioner, an inhabitant of New Brunswick, anxious to obtain, by some means, that direct communication between the provincial capitals which his Government offered to purchase of the United States at Ghent, denied our rights, and the difference was then submitted to arbitration. The arbiter, having lost more than one-half his dominions after the submission, and being thrown as a dependent on Great Britain and other European powers, not only to define the limits of his empire, but even for his existence as a sovereign, having no hopes or fears from us, and little partiality for our liberal ideas of self-government which had recently cost him so dearly, and still held him in jeopardy, recommends such a new line of demarcation as will give to Great Britain precisely what she wished to obtain by purchase and cession at the treaty of Ghent. And this we are now urged to adopt, for the purpose of conciliating the good opinion of the nations of the earth. Sir, if we would not incur their contempt for our blindness or pusillanimity, if we would not sacrifice our own self-respect, we should repel it as an unauthorized assumption, and a glaring encroachment. But we are asked, What will be the consequences of a refusal to accede to this advisory opinion? How is the controversy to be adjusted? Will not war be the consequence? That there may be difficulties, I freely admit. That Great Britain will protract, and harass, and annoy the borders, and subject them to vexations and danger, is not improbable; but that she will go to war for a cause so grossly and outrageously unjust, for a pretension so recent, so utterly and palpably baseless, I cannot believe. But, if she shall push her aggressions to that extremity, if the alternative is presented of sacrificing our soil and our citizens, or defending them by arms, as freemen, as American



citizens, as guardians of the rights, the honor, the security of the nation, we can have no doubts, no hesitation. If war must come in such a cause, tremendous as the evil is, deprecate it as we may, still we must meet it.

Sir, there is, in such case, no option. Submission never yet set bounds to encroachment. We must erect an impassable barrier upon the confines of our right and our honor. There, we must meet and repel every aggression. Justice demands it. Policy demands it. If we yield, if we recede, the spirit of encroachment will be strengthened and aggravated. More, more, and more yet, will be demanded. We must basely surrender all, or fight at last, and that, too, under all the disadvantages of the enfeebling, degrading, dispiriting effects of previous unavailing submission and concessions.

Suppose Great Britain should assert a claim of right to impress American seamen, and proceed forcibly to assert it, by taking even a single man from on board our ships. Would not this nation rise *en masse* to vindicate his rights, and avenge his wrongs, by arms? And, sir, shall we permit her to come upon our soil, to hold dominion over our own citizens, even to seize them in their dwellings, to expel our Government and laws from their appropriate sphere, and not repel it by force? No. Never—never. Honor, faith, policy, constitutional obligation, public and private right, all—all forbid it.

Maine, as a member of this Union, has a right to require protection from foreign encroachment. She does demand that the integrity of her soil and the sacredness of the persons of her citizens shall be preserved inviolate. No matter whether the extent and numbers invaded be great or small, you cannot permit one acre of her territory, or a single individual of her inhabitants, to be wrested from her by a foreign grasp.

I have not dwelt upon the value and importance of the region in dispute. I have discussed only the question of right. That is sufficient. But let it not be supposed to be of trifling moment. It comprises more than two millions of acres, embracing rich and valuable lands on the waters and branches of extensive rivers, and bearing heavy and valuable timber. But it is its military adaptations that have attracted the eager eye, and aroused the strenuous efforts, of our opponents, and which should induce an equal anxiety and more fixed determination on our part to retain it.

By our possession, the communication between their provinces is effectually cut off; and, by this severance, we can hold them in check at pleasure. But, should they be permitted to occupy it, they will erect fortifications, and establish a military post at a central position, where the whole force of the adjacent provinces may be easily concentrated, not only to strengthen themselves to repel attacks, but even to menace us with invasion.

Although Maine cannot, will not, yield her right, yet far, very far, be from her a disposition, a willingness, to involve herself or the country in the horrors of war. She will bear and forbear as long as endurance is a virtue. She will, I trust, act with calmness and discretion. She will preserve her claim in undiminished strength, keeping herself in a position to assert it, practically and effectually, whenever, in the contingencies and revolutions of governments and empires, she may deem it as expedient as it is just.

I protest, therefore, against this subject being discussed as a question of peace or war, and being decided as a matter of mere general expediency. Maine stands modestly but firmly upon her rights. She asks nothing more. She can accept of nothing less.

The resolutions of the Legislature of Maine, passed in secret session, contemplating a contingent transfer of this territory to the United States, have been animadverted upon, not only as constituting an objection to the strenuous support of our right by the Senate, but as rendering the whole a matter of indifference. I am apprehensive, sir, that they may be calculated to weaken our cause, and impair the force of our appeal. The gentleman from South Carolina, (Mr. Miller,) has declared that, while the Legislature of Maine stood resolutely and simply upon their rights, he sympathized with them, and had a strong desire to maintain them in their dignified and manly attitude; but, since their tone has so changed as to contemplate a cession, he has become utterly indifferent to their cause, viewing it no longer as a matter of State pride, honor, and dignity, but as a mere calculation of profit and loss, which can excite neither sympathy nor respect. Indeed, he indulged in still stronger language of condemnation.

Now, sir, I would most earnestly appeal to that gentleman and to the Senate, whether the indulgence of such impulses is not doing injustice to the State—the people of the State. Let me assure you that the change of views and feelings indicated by the secret proceedings of the Legislature, so far from meeting a har-

monious response from their constituents, have been received by a general, if not universal, note of popular disapprobation. Sir, the people, the true, primary sovereigns of Maine, have never authorized or assented to any suggestion of a relinquishment of any portion of their soil, or their fellow citizens, and, from their character, their history, as well as the strong recent demonstrations of their feelings and opinions, I am confident they never will. It is in their behalf that I appeal. Their representative I am. Their rights I vindicate ; and, for their protection, I demand the broad shield of the constitutional obligations of the whole Union.



POSTAGE.





## POSTAGE.

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WHEN Mr. Sprague was in the Senate, the rates of Postage were very high. They were graduated according to distance, and in some cases were six or eight times as much for a single letter as at present. Any paper enclosed, however small, doubled the charge. Mr. Sprague endeavored to obtain a reduction, but without success. Congress would not consent to any diminution; and it was not until several years afterwards, and when private expresses had encroached upon the income of the department and threatened to absorb nearly all the business between the Atlantic cities, that a change was effected.

Mr. Sprague addressed the Senate several times upon the subject. His remarks in one debate only are here given. That debate arose upon a Resolution offered by himself, and many members of the Senate participated in it.



## REDUCTION OF POSTAGE.

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IN SENATE, DECEMBER 31, 1832.

THE following Resolution, offered by Mr. Sprague, being taken up for consideration :

*Resolved*, That the Committee on the Post Office and Post Road, be instructed to prepare and introduce a bill reducing the rates of Postage.

After some adverse remarks by Mr. Grundy, the Chairman of the Committee on the Post Office :

MR. SPRAGUE said, that he had presented the resolution in this form, for the purpose of obtaining the opinion of the Senate whether there should be a reduction of the rates of postage or not. He did not offer the resolution in the usual form of instructing the committee to make an inquiry, because, to speak frankly, the subject had been before the committee during the whole of the last session, and he was not aware that any report had been made. If he was in error on this point, he hoped he should be corrected. He had, during the last session, presented several petitions, praying for a reduction, and having felt himself bound to pay some attention to these memorials, he had, from time to time, made inquiries of the committee, as to the progress of their investigation into the subject, and had been informed that they were attending to it ; but he had never been apprized of any report which had been made. What, he would ask, were the opinions of the committee on the subject ? There had been a report on the reduction of newspaper postage, but it was confined to that branch. There

had been five petitions, at the least, for a reduction of the postage on letters, which had not been acted on. The report on the newspaper postage was discussed at the last session; and he presumed that members might probably be prepared to come at once to a decision on the reduction of the letter postage, and to make it peremptory on the committee to report a bill, the details of which, and the amount and the mode of reduction, might then be the subject of a future discussion.

As to breaking in upon the treasury for the support of the Post Office Department, it was certainly a question of some moment, but he was not aware that the divorce between the treasury and the department had ever been complete. There never had been a period when the treasury had not contributed to the support of the department. For several years, an annual amount of about seventy thousand dollars had been appropriated out of the treasury for the support of the officers of the post office. It had been formerly said that, in an account current, the Government would be found to be indebted to the department. The Government, it was said, was indebted to the amount of half a million annually for the postage of the executive departments, and the privilege of franking all documents and communications. It would be no great evil if the Treasury should pay for these services. As it stands now, the channels of information for the people were taxed for the benefit of the Government. It appeared to him that the diffusion of knowledge, of information, through the country, which ought to be, and he presumed was, the primary object of the Post Office Department, made it important that the cost of this transmission should be reduced to as low a rate as possible. This was one of the avowed means of diffusing information among the people, against which there existed no constitutional objection. Were other means of communicating knowledge suggested, constitutional objections were at once raised. But here, through the Post Office Department, a mode presented itself which was not liable to such exception. By its agency, knowledge can be transmitted to the extremities of the Union; and it was important that the diffusion of that intelligence, which was the life-blood of the community, essential alike to the well-being of the people and of the Government, should be at as low a rate as possible.

The Senate had been called on to reduce other taxes, which were said to be oppressive upon the people, and why not this?



If the Government were required to pay their quota, it might enable the department to reduce the general rates of postage one-half; for, taking the average annual amount of postage at two millions, and estimating the Government postage at half a million, the general reduction would not be more than five hundred thousand dollars to bring the aggregate down to one-half. He thought that the Post Office ought to be called on to make a reduction equal to the Government postage.

He would not urge any observations on the subject of the unproductive post offices, but would conclude with expressing his hope that the Senate would make the instruction peremptory.

The debate in which the foregoing remarks were made, were continued at the next sitting of the Senate, which was on the second of January, when Mr. S. again addressed the Senate as follows:

MR. SPRAGUE said, that the reasons which he had presented on a former day in favor of the original resolution, had, in his opinion, received no satisfactory answer. He did not now intend to recapitulate them, but merely to notice, very briefly, the remarks which had just been offered in favor of the amendment. The gentleman from Kentucky (Mr. Bibb) says that a reduction of four and a half per cent. would be but a trifling affair, unworthy of attention, and inconvenient in its operation. But who has proposed such a reduction? Not my resolution, nor any gentleman who has sustained it; nobody but the honorable member himself has suggested four and a half per cent. as the extent of the diminution. It is his own proposition, then, which the gentleman pronounces to be insignificant and vexatious, and I certainly have no disposition to interpose between him and his offspring. The chairman of the Committee on the Post Office and Post Roads (Mr. Grundy) has presented, in various forms, and under all its aspects, the objection that a reduction will involve the necessity of calling upon the national treasury. It is repeated and reiterated that the department should sustain itself; that, if you once allow the precedent of calling for any aid from the treasury, no bounds or limits will or can be prescribed to its inroad, and horrible pictures of extravagance and ruin are conjured up by the affrighted imagination. One would think that to receive aid from the general funds of the Government was a violation of uniform practice and fixed principles, when, in fact, the Post Office Department has,

ever since the organization of the Government, required aid, received annual appropriations from the national treasury. For several years last past, those demands have averaged nearly seventy thousand dollars. The new precedent, against which the note of alarm is sounded so loudly, is found in truth to have been the uniform practice from the first days of the department to the present moment. This simple fact, I trust, will be sufficient to dispel extravagant apprehensions, and enable us to look calmly at the justice and expediency of the proposed measure.

The original proposition simply and singly declares that there shall be some reduction of the rate of postage. The amount, the mode, the items, and the time, are left to the consideration of the committee and the future determination of the Senate. Now, sir, to the only objection which has been urged, that the department will not be able to sustain itself, there are several satisfactory answers :

First, that a reduction of some of the rates of postage does not necessarily involve a diminution of the receipts of the department ; on the contrary, there is good reason to believe that rendering the transportation cheaper, in some particulars would increase the amount. Take, for example, double and treble letters ; the smallest piece of paper, a bank bill enclosed, duplicates the tax, without increasing the labor of transportation. If the expense was less, would not the number be increased ? Would not thousands of such letters be put into the mail that are now intrusted to a more precarious and procrastinated conveyance by private hand ; and by proper restriction as to weight, public convenience, and the revenue of the department, both be advanced ? I might also adduce, in further illustration, cases of short distances, and easy communication, where private, to a degree, supplant public conveyance. But the principle that a reduction of the rate of tax may increase the revenue, is too well known and established to need illustration ; and yet the assumption that it must and will certainly diminish the receipts, is the foundation of the objection to the resolution.

But suppose the revenue from postage should be diminished, it would not necessarily require supplies from the treasury ; it might be met by greater economy in the disbursements of the department ; by a less amount of extra allowances made at the mere discretion and uncontrolled will of the Postmaster General to

contractors ; by a less liberal or lavish expenditure for unprofitable and unnecessary routes. In these respects, there has been, and still is, a wide and almost unlimited scope for the mere discretion of the Postmaster General. No department of this Government has so much patronage, and so little responsibility ; and this has arisen from the ideal divorce between this and the other branches of the public service. "The post office sustains itself," is the reply to all complaint, and the shield against all scrutiny. It seems almost to have claimed and enjoyed immunity from investigation, by folding itself in its own robes, and saying it "sustains itself." But how does it sustain itself? Is it not by a tax upon the people? Is it not by the money of our constituents? Shall we not, then, inquire to what extent this burden is necessary, and whether it is levied upon principles of justice? You or I, sir, and other officers of the Government, and the Government itself, enjoy an immunity from this tax. "Free" is subscribed upon our communications, and they are transported to the remotest corners of the Union without charge ; but at whose expense? From whom does the department draw the money which pays for this transportation? Is it not by the postage paid by private citizens? They then pay not only the expense of conveying their own letters and newspapers, but those of the Government also. The packages, books, and documents, thus diffused, are not for the benefit merely of those who pay the postage, but of the whole country. The benefit is general ; should not the burden also be general?

The postage upon Government documents would be half a million of dollars a year. This department, then, not merely "sustains itself," but contributes by its labor half a million of dollars annually to the aid of the Government. It saves that amount to the national treasury. Suppose, then, that this—the worst consequence that has been apprehended or predicted by any one, the payment from the treasury of the Government postage—should ensue from the proposed reduction of rates, would there be any injustice? Nay, sir, is it not necessary, in order to preserve the principles of equal taxation for common benefits?

The present rates of postage are essentially the same as those established forty years ago, in the infancy of the country ; when the wants of the Government were urgent, and the experience of the department nothing ; when the roads were bad, the difficulties



of transportation great, and the business transacted small. Since that time, there have been, throughout the whole country which was traversed by the mails when the rates were originally established, a wonderful, an astonishing increase in the facilities of transportation and the amount of business ; and yet this tax upon the diffusion of light and knowledge is kept up to its full original amount. And still the department, which originally sustained itself, cannot now, we are told, bear a reduction, because, in that event, it will not be able to stand upon its own revenues. Why will it not be able to stand alone ? Because of the continual enlargement of facilities and expenses upon unproductive post routes, and the extension of the franking privilege. If this argument is allowed to be sound, the time can never arrive when the citizens of any portion of the country can anticipate a diminution in the onerous burden upon the circulation of information. No matter what improvements they make, at their own expense, in the construction of highways, railroads, and canals ; even if they reduce the expense to the Government to less than half its original amount, while the increase of business may more than quadruple the receipts from postage, still the money thus drawn from them will forever be expended by the Postmaster General. There will always be contractors and agents asking extra allowances ; there will always be a desire for an extension of the frank ; there will always be new, and unprofitable, and unnecessary routes to absorb the whole funds ; and we shall always be told that the head of the department has made arrangements to expend the whole revenue ; and, therefore, we must never touch the rates of postage. It has been objected that those who receive the benefit of the mails should pay the expense. If so, the Government, then, should pay for the amount of its accommodation, and the unproductive routes should meet their own expenses. But this is more than I ask. As the matter now stands, the Government transportation, and the unproductive mails are both thrown upon the productive routes, to the subversion of equality and justice.

The gentleman from Kentucky (Mr. Bibb) has heretofore strongly advocated an abolition of the postage on newspapers ; and, as my proposition is simply that there shall be some reduction of the rate of postage, I had confidently anticipated that it would conciliate his support. But, although still in favor of a reduction, he is opposed to instructing the committee to reduce, lest they

should not make the particular modification which he has at heart. He fears to give the committee so much latitude of discretion, and yet he is in favor of this amendment, which has no other effect than to enlarge that discretion. He will not trust the committee with a limited power as to the particulars in which the reduction shall be made, but prefers a proposition which gives them every latitude, not only as to the items and amount, but whether there shall be any reduction or not. I had hoped, sir, that the original proposition, being single, simple, and unencumbered by details, would command the support of every member who is in favor of any diminution; and, notwithstanding his argument, I hope we shall yet have the vote even of the Senator from Kentucky himself.





## MODIFICATION OF THE TARIFF.



## MR. CLAY'S COMPROMISE.

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On the 12th of February, 1833, Mr. Clay asked leave of the Senate to introduce his celebrated Compromise Bill, respecting the Tariff. The question of granting leave was debated with much animation, in a crowded Senate. Mr Sprague made a brief speech, which is here given.





## MODIFICATION OF THE TARIFF.

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### MR. CLAY'S COMPROMISE.

IN SENATE, FEBRUARY 12, 1833.

THE question being on granting leave to Mr. Clay to introduce a Bill to modify the various Acts imposing duties on Imports,

MR. SPRAGUE said, time enough had not yet been afforded to determine whether he should be able to give this important bill his ultimate support or not. That would depend upon a more deliberate examination of its principles and details. The only question now before the Senate was, whether leave should be given to introduce it, whether it should be laid before the Senate. If the gentleman from Georgia (Mr. Forsyth) had confined himself simply to his constitutional objections, he (Mr. Sprague) would not have arisen. But what had the Senate heard? What was the condition of the country? Disquieted, disturbed, almost convulsed; laws annulled; violent resistance to their enforcement threatened; apprehension of disaster and ruin on the one hand, and civil war on the other, spreading far and wide. Already the din of preparation is borne upon the southern breeze; and we may almost hear the clangor of arms. On all sides of the House, and from all quarters of the House, they had heard the anxious hope expressed, that some measure might be devised which should give peace to the country. It was their solemn and official duty to seek, anxiously to seek, and embrace, measures of

tranquillity. A proposition to that effect, from a source entitled to the highest consideration, is presented to us, accompanied by an explanation conciliatory in its language, and elevated in its sentiments. How has it been met, and that, too, by a Senator from that section of country which raised aloud the cry of oppression, and which the bill proposes to relieve? In the first place, by a sarcasm upon the honorable mover! By telling the gentleman from Kentucky that a measure of peace comes with peculiar propriety from him, who, of all men, had most contributed to the distraction which pervades the country. Is this the mode in which tranquillity is to be restored, by repelling propositions with reproaches upon its author? Are the feelings thus excited in order to produce harmony and concord?

But the gentleman did not stop there. The feelings of all who have heretofore sustained the great American system, were assailed in a manner to excite any emotions but those of conciliation. The gentleman sounded the note of triumph and victory, vaunting as over a fallen foe, and denouncing punishment and retribution! He would not even receive from them propositions of peace; unconditional submission seemed to be demanded. One would have thought that they were suppliants at his feet, and that he could trample upon them with impunity. But he warned the gentleman against trusting to so gross a delusion. They are yet erect, with arms in their hands, and vigor and spirit to wield them with effect. If war is to be waged, he will find that the battle is not yet won; and let him that putteth off the harness boast, not him that putteth it on. The time for his shout of victory and triumph has not yet arrived. Triumph over whom? the friends and supporters of protection—the North, Middle, and Western sections of our country!

In his assumption, that this has emanated from the weakness of the friends of protection, the gentleman is in profound error; it proceeds not from their weakness, but their strength. The feeble cannot yield with safety or honor; the powerful may with both. It is a proposition from the strong to the weak; and it is because they are strong, that they can make the concession with dignity. Does the gentleman suppose that the little cloud that lowers in the Southern horizon, the speck of war there risen, has already overwhelmed the whole Northern, Middle, and Western country? has brought them to unconditional submission? He much mis-

takes the temper of the times. The spirit of concession which he sees, is not the offspring of fear, but forbearance ; it is from the magnanimity of conscious power, and which nothing is more likely to destroy, than an imperious tone of demand in those towards whom it is extended.

There is yet another ground of objection. He says, if this bill should be generally popular, if it should be everywhere received with favor, the effect might be to arrest the progress of a measure in the other House, and defeat an adjustment. That is indeed a danger which few would have had the sagacity to discover. The popularity, the acceptableness of a measure, being so great as to supersede all others, is to be the means of preventing the desired arrangement from being accomplished ! To other minds, this would have appeared to be one of its greatest recommendations.

Mr. S. said he wished to repeat, that he had not had an opportunity to give that deliberate examination to the principle and details of the bill which would enable him to say, at this moment, whether it should receive his support or not ; but he was anxious to have it legitimately and regularly before the Senate, and hoped the leave asked would be granted.



## THE TARIFF.





## MR. CLAY'S COMPROMISE BILL.

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THE preceding speech was made on the question of granting leave to Mr. Clay to introduce his Compromise Tariff Bill. Leave having been granted, the Bill itself subsequently came up for discussion. Mr. Sprague made the following remarks thereon.



## MODIFICATION OF THE TARIFF.

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### MR. CLAY'S COMPROMISE.

IN SENATE, FEBRUARY 25, 1833.

A BILL to modify the various Acts, imposing duties on Imports, being under consideration,

MR. SPRAGUE said : As senators, we act not in our own right, but as public agents. This acknowledged truth is one of the reasons which induce me to give this measure my support, confident that, in so doing, I shall accord with the wishes of my constituents, the people of Maine. In the same truth, also, is found an answer to the suggestion that, in sustaining this bill, we bind ourselves by pledges, which must control our future course of legislative action.

We are agents. The extent of our authority is known to all. It is expressly defined in the constitution. We cannot go beyond it. We cannot bind the people, our successors, nor even ourselves, in our representative character, by this act, further than by all other acts of legislation. While in force, it will be law ; but, at all times, subject to revision, modification, or repeal. If the people shall acquiesce in and confirm it ; if public sentiment shall be adverse to renewed and continued agitations of the subject ; if the various sections of the country shall, on the whole, prefer to settle down in peace and tranquillity upon this basis,—agreeable and disagreeable, in some respects, to all,—then, indeed, it will

be permanent and enduring. But if it shall be the deliberate will of our constituents to change or abolish it, they will do so, and that too by the instrumentality of ourselves, or our successors, their servants here. I wish, therefore, to be distinctly understood, that if, from knowledge hereafter acquired, or events which shall hereafter transpire, I shall be convinced that the wishes and interests of my constituents, and of the country, shall require a revision or entire repeal of this act, I shall hold myself not only at liberty, but constrained by public duty, to attempt it. But, at the same time, I must declare my confident belief that the period will not soon arrive when public sentiment will tolerate any material alteration of its provisions, or in effect to disturb the compromise which it embraces. The circumstances under which this law is adopted; the agitations which it quiets; the convulsions which it arrests; the dangers and miseries which it averts; and the harmony and tranquillity which it restores; the magnitude and difficulty of the subject itself; the conflicting opinions and hostile passions which it has generated; and the manifest importance to every branch of domestic industry, that the incalculable mischiefs of fluctuating legislation should cease, and protection, even if more moderate in degree, be established by a permanent and enduring system; and the evident necessity, with reference to the peace and safety of the country, that violent sectional conflicts should not be renewed, are the highest and strongest guaranties for its future immunity from successful attack.

The alleged pledges which have been so strenuously objected to are supposed to be contained in those clauses which declare that certain things may, and others may not, be hereafter provided for by law. Such provisions are not unprecedented. In a bill which has passed this body at the present session, disposing, for a limited time, of the proceeds of the public lands, will be found declarations equally mandatory and restrictive upon future legislation. The second section provides that Congress may, notwithstanding that act, hereafter reduce the price of the public lands, or transfer them to the States. In the fourth section, "the power is reserved of assigning, by law," to new States, their proportion of the proceeds. The fifth section requires Congress, hereafter, annually to appropriate at least eighty thousand dollars for surveys, and prohibits the increase of the minimum price of the public lands. And yet no one objected to that bill as containing



pledges constraining our future action. No one doubted, or can doubt that, if it shall become a law, it will, at all times, be subject, in all its parts, to revision or repeal, at the pleasure of the Legislature.

It has been vehemently urged that this bill abandons the principle of protection, and impairs the constitutional powers of the Government. So far from an abandonment of that principle, it is preserved throughout, and in every section. The first preserves a proportional protection, upon the basis of the act of last session, until the year 1842. The second section is introduced avowedly and palpably for the sole purpose of protecting a certain class of woollens, not only until 1842, but after that period. The third provides for cash duties and home valuations, with a view to protection. The fourth adds to the existing list of free articles until 1842; and the fifth makes further additions after that period, for the purpose of aiding manufactures, by furnishing commodities necessary for their successful prosecution at the cheapest rate, or to make the necessary reduction of the revenue, by removing imposts from non-protected articles, which do not enter into competition with our own productions, and reserving expressly the right of discrimination in the laying of duties. The sixth section provides a remedy for any deficiency or excess of revenue prior to 1842; also preserving the discriminating power. With what justice or propriety, then, can it be said that the bill abandons the principle of protection? Those who seriously insisted upon this must have mistaken the principle for the degree. The amount of protection is diminished. The manner in which this is accomplished has also been the subject of animadversion. For eight years to come, it is agreed that it is ample, and receives all that the friends of domestic industry could reasonably desire. But, beyond that period, the reduction is alleged to be too great, and accomplished by a very objectionable process of equal diminution. In considering this part of the subject, it is to be constantly borne in mind, that it is agreed, on all hands, that some reduction must be made in order to bring down the revenue to the wants of the Government. The payment of the public debt has left a considerable annual surplus, which, all concede, cannot be usefully expended, and must not be permitted to accumulate. Resolutions, declaring that there ought to be a reduction of the revenue to the necessities of the Government, have been offered by several of the

fast friends of the American system, particularly by the gentlemen from Pennsylvania and Massachusetts, (Mr. Wilkins and Mr. Webster,) and acquiesced in by all. The manner seems now to be the only debatable question. Theoretically, the best mode would doubtless be to take each article by itself, and decide solely with reference to its intrinsic merits, and with an impartial and disinterested view to the best interests of the whole country. But who is there so hallucinated as to imagine that such a course will be actually adopted in practice? Do we not know that each and every item will have its peculiar friends, who, from local interests, will strenuously exert themselves to rescue it from the threatened reduction, to except it from the general system, and throw the depression and loss upon others? Hence inevitably must result a conflict between the various subjects of protection; the friends of each struggling to keep up their own objects of peculiar favor as high as possible, leaving the reduction of the revenue to operate the prostration of others. In such a contest, I have good reason to apprehend that the woollens interest, that in which my constituents, the farmers of Maine, and indeed of all New England, have the greatest stake,—which, indeed, may be considered the great New England interest in the protective system,—will be overwhelmed and sacrificed. I have, for years, anxiously watched the process of building up and breaking down tariffs; of increasing and diminishing protection; and have observed that there is one interest which seems to have ruled over others, literally as well as metaphorically, with a rod of iron. I well remember that, in the year 1826 or '7, when a bill was before the other House to give to the woollens manufactures the protection which had been intended to be raised by the act of 1824, but which had been impaired by the counteracting legislation of Great Britain, all that was contemplated, all that was asked, was a restoration of actual protection, which former laws had designed. The comparative justice of the measure was so plain and palpable, that it seemed to command general favor, until a distinguished gentleman from Pennsylvania, now our minister at the court of St. Petersburg, rose and denominated it a New England bill; a Boston and Salem bill; declaring that, as it proposed no increase of protection for Pennsylvania interests, it ought not to be adopted. From that moment, opposition became formidable, and continued to strengthen, until the measure was finally defeated. This gave rise to the celebrated

Harrisburg Convention, and the tariff of 1828, the formation and progress of which, in the House of Representatives, is well known, in which liberal and excessive favor was extended to iron, and comparatively scanty and meagre protection doled out to the woollens. The Senate made some material corrections. This act carried the protective tariff to its zenith. Its declension commenced, and we all well remember the character and progress of the reducing act of 1832. Discontent in one section of our country had become loud and vehement. Petitions and remonstrances, persuasion and denunciation, thickened upon us. Concession—concession was the word. Compromise and conciliation were in the mouths of gentlemen on both sides, among whom the Senator from Pennsylvania (Mr. Wilkins) was not the least prominent. A sacrifice was to be made to calm the storm of sectional discontent; and what was the offering? Was it iron, which is of such universal demand, not only at the South, but in every city, village, and cottage, within the broad borders of these United States? O, no. That interest was too strong. The great central political power of Pennsylvania sustained it; but the woollens, the devoted woollens, were the selected victim. The coarse fabrics—negro cloths, as they are sometimes designated—were absolutely, at one fell swoop, brought down to the nominal duty of five per cent.; and all the valuable establishments and meritorious manufacturers engaged in their production immolated to appease the angry and threatening spirit of Southern discontent. Nor was this all. While there was scarcely more than a filing taken off the iron, wool, and the other fabrics of that material, were essentially reduced. The bill, as it came from the other House, was, in this respect, amended in the Senate, to give additional aid to that interest. The other branch disagreed to these amendments. A committee of conference was appointed, and the gentleman from New Jersey, (Mr. Dickerson,) who has so long and so ably presided over the Committee on Manufactures, and who, from interest and local position, has always had a peculiar devotion to iron; and the gentleman from Pennsylvania, (Mr. Wilkins,) whose eye never winks when that preponderating production of his State is in question; and a gentleman from South Carolina, (Mr. Hayne,) who was the uncompromising enemy of all protection, constituted that committee on the part of the Senate. These were the champions sent forth by this body to be the guardians and defenders of the woollens inter-



est in a contest with the House. And how did they bear themselves in the field? Two surrendered at once; and the other, having predetermined to submit, held out but for a moment, and then claimed the merit of having "died hard." Every amendment of the Senate, in favor of the woollens, was abandoned: and our own committee joined with their opponents in recommending that the House should insist, and the Senate recede, in every particular. Their report was adopted. During the present session, we have had further developments. If I may be permitted to allude to the proceedings in the other branch of the National Legislature, we have there seen a bill reported by the standing Committee on Finance, and well understood to be in accordance with the views of the Executive, by which the general system of domestic protection is cut down to the bone; while this favored item of iron is exempted from the general demolition, and touched so lightly as to be but little affected. The report which ushered in the bill, states that the duties are thereby arranged "at rates of from ten to twenty per cent.," varying from these, however, in the case of iron. That was to be still left a monument of sparing mercy. The spirit of destruction passes it by. The lightning, which blasts almost every other prominent object, leaves this unscathed, glancing lightly over the great central political power.

The measure before us has the merit of impartiality. My honorable friend from Kentucky, (Mr. Clay,) is the first who has had the justice and the courage to present a scheme of equal reduction. And this feature, which has been made the ground of vehement objection, is to me one of its recommendations, because it is the nearest approximation to justice to the wool and woollens of any system which I have seen, or expect to see proposed, from any quarter capable of insuring its adoption. The loudest complaints against this bill are heard from the gentlemen from Pennsylvania and New Jersey, the devoted advocates of iron, which they assure us will be more reduced than other articles. That, sir, is because its protection is now higher than others, beyond all just and due proportion. It amounts to seventy or eighty per cent., or even more. My constituents are great consumers of that article. Our shipping requires an immense quantity; our mills demand much; every mechanic, farmer, and laborer, is a purchaser. There is not a man who drives a plough, or wields a hoe, axe, or a hammer, who raises a hill of potatoes, drives a nail, saws a board, sails

a boat, or casts a hook into the sea, who is not in some degree interested in the reduction of the price of iron. Ever since I have had a seat in Congress, I have protested and struggled against this heavy duty. It was one of my strongest objections to the tariff of 1828; and I have ever since sought its material reduction; but it has been hopeless, until the introduction of this bill. I am willing to extend reasonable protection to that article; I would by no means prostrate it; but I would set bounds to its exorbitant demands, and terminate its controlling dominion over others. I agree, sir, that a better theoretical mode of reducing the tariff may easily be prepared, and arguments of much force, in the abstract, may be urged against it; but I have no hopes of seeing any better carried into practice. Who that knows any thing of the condition of our country, the conflicting opinions, the opposing interests, the warring prejudices, the raging passions of different sections; who that sees that the various and immense local interests involved in the tariff may be made the elements of political combinations, appropriated as the trading capital of bargaining politicians, can expect a system of reduction by the selection of items for specific duties, either by the present or next Congress, which will be theoretically correct or practically just? As well might you expect a ship to cross the Atlantic, amid varying currents and conflicting storms, upon a straight line, laid down with mathematical correctness in the calmness of the closet. No, sir; since this difficult and arduous voyage must be made let us apply all our sagacity to adapt our course wisely and prudently to the state of the elements by which we must be borne along, and which cannot be subjected to our control. But the greatest of all recommendations of this measure is, that it promises peace, harmony, and tranquillity to this agitated and distracted country, the preservation of this invaluable Union, this great temple of human liberty, the citadel of the rights of mankind. It is the bow of promise in the troubled sky; the darkening and lowering clouds will be dispersed; the murmurings of the coming tempest will cease; and we may hope that halcyon days of calmness and peace, of mutual confidence and fraternal regard, will again return, and the glorious ensign of our glorious Union, forever wave over a united, free, prosperous, and happy people.





NULLIFICATION.



## MR. CALHOUN'S RESOLUTIONS.

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THE great debate in the Senate, on Nullification, between Mr. Webster and General Hayne, took place in the year 1830. The controversy then turned upon the true construction of the language of the Constitution, upon which Mr. Webster's speech was conclusive. But South Carolina proceeded to the extreme of practical nullification, and its advocates found it necessary to assume new grounds of justification. They founded their arguments upon the nature and essential character of political sovereignty. Mr. Calhoun, their great champion, was, in 1830, Vice President, and could take no part in the discussion. In 1833, he was a member of the Senate, and offered certain resolutions, embodying his favorite doctrine. In the debate upon these, Mr. Sprague made the following remarks.





## NULLIFICATION.

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### MR. CALHOUN'S RESOLUTIONS.

IN SENATE, FEBRUARY 26, 1833.

MR. CALHOUN'S Resolutions, declaratory of the nature and power of this Government, being under consideration,

MR. SPRAGUE said: That the transcendent importance of the topics of this debate had not been exaggerated by the Senator from South Carolina. The consequences, said Mr. Sprague, already resulting, and those still more disastrous, which are threatened from the doctrines which he maintains, demonstrate that they should be regarded with intense interest. The President has declared that the laws must be enforced, and has called upon the National Legislature for the powers necessary to the performance of his high constitutional duties as the Chief Executive of the United States. The people of South Carolina have solemnly declared, that the revenue laws shall not be executed within their limits. They have raised their banner, and inscribed upon it in capitals—"No more taxes shall be paid here." They have denounced our legislation as oppressive, and proclaimed that "they will throw it off at every hazard;" and they have announced, in the most authoritative manner, by a fundamental ordinance, that our laws are null and void, and that the passage, by Congress, of any act to authorize the use of force against the citizens of that State, dissolves her connexion with her sister

States. The bill which has passed the Senate, may be considered as of that character ; and if so regarded, and the ordinance shall be executed, South Carolina will deem herself out of the Union, and hold the citizens of the United States, as she does the rest of the world, "enemies in war, in peace, friends" We have, indeed, the hope that the operation of their ordinance, of their extraordinary replevin act, and their new military law, made to concentrate the whole martial energies of the State, may be arrested and postponed by the efforts of leading individuals. But a whole people have become deeply excited—not from their own feeling of oppression, but by the persuasions of others that they were the devoted victims of injustice. The address of the convention itself, acknowledges that "the difficulty has been great to bring the people to the resisting point." The manner in which that was accomplished has been described by the Senator from South Carolina, (Mr. Calhoun.) Tracts, pamphlets, newspapers, speeches, and addresses, were scattered, and reiterated over the whole surface, to the remotest recesses of the State, till the people "received the doctrine." They have been aroused, excited, exasperated, wrought almost to desperation, and have hurled defiance at their supposed oppressors. The necromancers, who have conjured up this evil spirit, may not be able to bid it down. Those who have raised the storm, may not have the power to allay it. The hand which has kindled the conflagration, may in vain attempt its extinguishment. When the fountains of the deep are broken up, and ocean waves are heaving, who shall say that thus far shalt thou go and no farther ? They have raised the wind, and may have to reap the whirlwind ; they have "scattered firebrands, arrows, and death ;" they may not now say, "Am I not in sport ?"

We hope for the best. But no prescience can foresee the ultimate effects of our measures, and in their adoption, we occupy a position of oppressive responsibility. It behooves us to consider well, to deliberate profoundly upon the fundamental principles of our action. For, if we are wrong in this question of constitutional power—if we have no legitimate authority or moral right to pass the bill, then it may well deserve the denunciations which the fervid eloquence and burning zeal of its opponents have poured forth. But, if they are wrong, if it be a rightful authority which they resist, and if their decrees shall be carried out in

action, they must be content to have their conduct branded by its true appellations—lawless violence, rebellion, treason.

What, then, is the question at issue? What are the doctrines arrayed in opposition to that bill? It is insisted that no allegiance is due to the United States; that the highest and paramount obligation of every citizen is to his own State; that, when she speaks, every man within her limits is bound to obedience, even if the command be resistance to the authority of the General Government; that this obligation is absolute, unqualified, and unconditional, leaving no right of inquiry into the correctness of the command, and no question to be made whether the laws of the General Government are constitutional or not. The Senator from South Carolina (Mr. Calhoun) declared, that, if it were conceded that the tariff laws were all perfectly constitutional, and that the national Judiciary had the unquestioned jurisdiction and ultimate right of decision, still that the bill could not be justified, because it authorized force against individuals, who were constrained, by higher and superior obligations, to bow, in blind and absolute submission, to the paramount power—the State sovereignty. He stigmatizes it as worse than a barbarian outrage; that it is not, as some have declared, war upon a State; but a savage attack upon the citizens, passing by and disregarding the community, the sovereign, who rightfully controls their action.

The Senator from North Carolina (Mr. Mangum) insisted that he is bound to obey the sovereign voice of his State, whether she be "right or wrong." And the Senator from South Carolina (Mr. Calhoun) enforced the same sentiments. They both contend that the State throws its shield of legislation over its citizens; no external power, not even the United States, can have any right to penetrate thategis, to touch any individual within its territory; that, when a State law shall anul, conflict, or be inconsistent with the laws, treaties, or constitution of the United States, the latter are to be disregarded, and the former unconditionally obeyed.

Now, sir, the constitution of the United States has expressly declared that, in such cases, the State laws shall yield. It was foreseen by the convention which framed the constitution, that such conflict and incompatibility would necessarily arise. The greatest difficulty which they had to encounter was from the pride and tenacity of State independence. The inherent and fatal vice of the old confederation was, that the Continental Congress had

no power over individuals, but only addressed itself to States in their aggregate character as independent communities ; and when the new constitution adopted the appropriate remedy, by creating a government to make laws, a Judiciary to expound them, and an Executive to enforce them directly upon every person within the boundaries of the United States, it was at once foreseen that, as the several States had also the power of legislation over the same persons, within their respective limits, the laws of these two governments would be very likely sometimes to come in conflict. They, therefore, wisely made provision for such an event, and gave the supremacy to the laws of the Union. The sixth article declares that "this constitution," and all "laws made in pursuance thereof," and "treaties"—shall be the supreme law of the land, \* \* \* "any thing in the constitution or laws of any State to the contrary notwithstanding." And yet gentlemen now assert, and vehemently and strenuously insist, that the laws of the State are to be supreme laws, any thing in the constitution or laws of the United States to the contrary notwithstanding ! How is such a conclusion attained ? By what process do they escape from the express language and palpable meaning of the organic law ? I have curiously and anxiously read and listened to their reasonings upon this subject, and find that they undertake to control and subdue the constitution by certain abstract notions of original unchangeable sovereignty. When scrutinized and analyzed, it will be found that the fundamental position which they assume is that the people could not, had not the power, to make such a constitution as this purports, on its face, to be ; and that its plain meaning is to be restrained and overruled by an assumed political dogma. Their course of argument is this ; The constitution was adopted by the people of the several States, acting as distinct communities, which, before its adoption, were independent sovereignties. This, sir, I have no disposition to controvert ; but their next proposition is, that sovereignty is, in its nature, indivisible and inalienable ; and therefore could not be transferred by the States, and, of necessity, is retained by them unimpaired ; that not a particle belongs to the United States ; and, as the sovereign power is always supreme, the State is paramount to the United States. Their fundamental postulate is, that sovereignty is inalienable ; and from this all their consequences are deduced.

The address of the convention which passed the ordinance places



their doctrines upon this foundation. Referring to the constitution, it says: "A foreign or an inattentive reader" \* \* \* "would be very apt, from the phraseology of the instrument, to regard the States as having divested themselves of their sovereignty, and to have become great corporations, subordinate to one supreme Government. But this is an error; the States are as sovereign now, as they were prior to their entering into the compact." Correctly speaking, sovereignty is a unit. It is one indivisible and inalienable. It is, therefore, an absurdity to imagine that the sovereignty of the States is surrendered in part and retained in part. The federal constitution is a treaty, a confederation, an alliance. And again: the great expositor of this doctrine (Mr. Calhoun) has told us that the sovereignty is still "in the people of the several States," "unimpaired; not a particle resides in this Government; not one particle in the American people collectively." After admitting that the States have delegated certain powers to the General Government, he proceeds: "But to delegate is not to part with or impair power. The delegated power in the agent is as much the power of the principal as if it remained in the latter; and may, as between him and his agent, be controlled or resumed at pleasure." It cannot be denied that the constitution purports to impair the sovereignty of the States, and to establish a new Government over their citizens. But it is insisted that the language of the constitution is not to decide its character—(Mr. Poindexter;) and that, although from its phraseology one would be very apt to regard the States as having divested themselves of their sovereignty, yet such a thing is impossible, in the nature of things, and therefore has not been done. The people have attempted it, indeed; but, being in itself impracticable, of course, it has not been accomplished. Sovereignty is inalienable! This single abstraction, this figment of the imagination, this naked political dogma, restrains the whole people, disables them from accomplishing their purpose, limits and controls the constitution, annulling some of its provisions, and reversing others. The whole fabric of nullification, curiously and ingeniously wrought, compacted by intellectual strength, enriched by the treasures of learning, and gilded by the splendors of genius, rests, like an inverted cone, upon this little dogma—a metaphysical chimera, an airy nothing!

Sovereignty is inalienable; and, if delegated, resumable at



pleasure, and without revolution. Who were the original sovereigns? Individuals. Each came from the hands of his Maker sovereign and independent, owing no allegiance, and subject to no earthly power. May every man, at pleasure, resume his original, indivisible, inalienable sovereignty? The first step in the progress of society was the formation of families; next, patriarchal tribes; and then, their amalgamation into States or nations. And may those be resolved at pleasure into their original elements by the rightful resumption of primitive inalienable independence?

The whole history of the human race falsifies the assumption, that sovereignty is inalienable. Every page records its transfer, by free consent, by purchase, by rebellion, revolution and conquest. Take Great Britain for example. May the three nations—nay, may the ancient heptarchy, which have been swallowed up in that kingdom, now resume their former separate independence, and that, too, without revolution? But, not to recur to the fruitful records of former ages, look at modern Europe, and its transmutations in our own age, and then say that sovereignty is not transferable. In a single place, this political, metaphysical impossibility has been actually overcome no less than five times within thirty years. Coblenz was attached to the dominions of the Elector of Cologne, afterwards united to the French republic, and then to the French empire; and successively to the Grand Duchy of Berg, under Murat; to the Grand Duchy of Baden; to the kingdom of Westphalia, and, after the prostration of Bonaparte, to Prussia. Turn to our own country. I ask these gentlemen, has Kentucky any sovereignty? How did she acquire it? She was once subjected to Virginia. There was but one sovereignty; and as that was indivisible and inalienable, how can Kentucky have one particle? I ask again, with still deeper interest, has Maine any sovereignty, having once been a portion of Massachusetts? But I request the particular attention of gentlemen to the condition of Louisiana. Is not that State equally sovereign with South Carolina, Virginia, or any other? Was it always so? Was it not transferred by Spain to France, and from France to the United States? Was not sovereign dominion held over it by all those Powers successively? Before its erection into a State, was it not our territory, our purchased property, subjected to our control, governed by our will, without ever having had, for a moment, the shadow or pretence of independent sovereignty?

Was it not made a State by our act? And if, as gentlemen contend, the United States have not one particle of sovereignty, whence, and in what manner, has Louisiana acquired her sovereignty? Could the United States impart it, having none themselves; and not only impart, but render it transcendently paramount to the express provisions of the constitution controlling or annulling them? Do the United States hold delegated powers from Louisiana, which she may resume at pleasure—resume what she never possessed? Should she take to herself the powers only which she enjoyed prior to her supposed delegation of them by the constitution, she must restore herself to her anterior condition of territorial submission—and this by way of vindicating her sovereignty! How is it now with the territory of Florida? and what sovereignty will the United States confer when we shall have admitted her into the Union?

The constitution provides for the admission of new States formed by the junction of two or more States, or parts thereof; but, as sovereignty is now found to be inalienable, this provision is thereby rendered utterly nugatory.

The doctrines against which I am contending are as novel as they are extraordinary. They find no place in the history of the formation, adoption, or cotemporaneous expositions of the constitution. They were then *terra incognita*, and have been but recently discovered through the modern telescope of political metaphysics.

In the establishment of our present constitution, the great, prominent, and popular objection of its opponents was its supremacy and paramount authority over the States, its subtractions from State sovereignty. Its friends found it necessary to encounter this most formidable objection, by their utmost strength of fact and argument. All their ability was exerted to overcome it; their utmost ingenuity to obviate it. And yet not one of its framers in the general convention, of its supporters in the State conventions, or of its numerous expounders, commentators, and advocates before the people, ever suggested the rights and doctrines of nullification; which, if they had had any existence, would at once have silenced the most formidable battery, and satisfied the most extravagant jealousy of State independence. So far from denying the fact of the paramount authority of the United States, they manfully and successfully defended it. The general convention itself, upon the

consummation of their work, in communicating it to the States, through the Continental Congress, admit and answer it, declaring that "it is obviously impracticable in the Federal Government of the States, to secure all the rights of independent sovereignty to each, and yet provide for the interest and safety of all."

This new school in politics teaches that the several States have, by the constitution, only delegated certain powers, which each may resume at pleasure. The United States have the power to declare war; but each State has the reserved right to annul it, and be herself at peace! The United States may make treaties; but each State may, *ad libitum*, revoke this authority, and terminate the compact! Express prohibitions are imposed upon the States. They may not declare war, make treaties, coin money, emit bills of credit, pass *ex post facto* laws, or those impairing contracts; and yet every State has reserved the right, at any moment, to cast off all these prohibitions! She is fettered, indeed; but just so long only as it may be her sovereign will and pleasure! And actually to throw off all these restraints, to resume all these powers, is not revolution. It is legal, peaceable, constitutional remedy! It is pursuant to the constitution, within its scope; and the State is still a member of the Union!! The United States, the Constitution, and the Government, it is said, are but agents,—a mere aggregation of delegated powers; yet the agency may be revoked, the delegation terminated, and the Constitution and Government remain! It will be no revolution! Can any thing be more preposterous?

Sir, we all admit the original, inalienable right of man, individually and collectively, to resent oppression, to overturn and destroy Government, when, by perversions and corruptions, it has become subversive of the ends for which it was instituted. But this is the primary right of force—of revolution—of rebellion, by which government is overthrown and subverted. It is not pursuant to the law of the land. It is above and beyond it. It is in defiance of oppressive legislation. Can the destruction of the Government be legal? Can the annihilation of the constitution be constitutional? The distinguished member from South Carolina (Mr. Calhoun) has referred to the danger to which their slave property might be exposed, if his doctrines be not established. Will he permit me to warn him of the greater danger of superseding the securities of the constitution? Let him beware how he appeals

from the plain stipulations of that instrument to the original and inalienable rights of man. Let him not lead the way in a course of reasoning which points directly to the inquiry, by what means one-half of the human beings upon the soil of South Carolina are held in absolute dominion as property by the other; how their natural and sovereign rights have been cloven down and transferred to their masters. Be not wise beyond what is written. Abide by the Constitution. That is your best and highest security. From that solemn compact we will not depart. We have no inclination to disturb it, nor to refine away its guaranties. They are the work of our fathers, and let them be forever sacred.

We have witnessed much controversy as to the origin of the Constitution. In my judgment, it is the work of the people of the several States acting as separate communities. It was drafted by a convention, and proposed to the States; but, until their adoption, it was a mere proposition, an unexecuted instrument, having no efficiency. The ratification by the people of the several States imparts all its validity. They, having all power, could make it any thing that they pleased. The people of Virginia and Maryland, for example, might agree to commingle in one mass; to amalgamate; to become, as by fusion, one people; abrogating entirely their State institutions, and forming a new single Government over a single community; or they might make a league, a mere confederation; or form a union anywhere between these two extremes, participating of both, embracing such extent or degrees of each as to them might seem fit. And the same remark may be extended to the other States. Having this power, the only question is, How did they exercise it?—What union did they form? The answer is to be found in the instrument itself—the Constitution. It has been much contested whether it is federative or popular. It is neither—it is both. In its origin, and in the sources of the organization of the Government, it is federative. In the action of the Government upon all those subject to its powers, it is popular. The laws are made for, and reach and operate directly upon, individuals, passing by the local Governments, and penetrating beyond them, and scarcely recognizing the existence of the States as communities. The Judiciary is coëxtensive with the legislative power. Such being my view of the fundamental law of this nation, I cannot recognize any right in a State to arrest and repeal the legislation of Congress. I dare not withhold my sup-



port from a measure which seems essential to the maintenance of the Government and the Constitution. If the Legislature of the nation should refuse to uphold and vindicate them at such a crisis, they must fall, and their authority be prostrated, I fear, forever. I could not forget the past, nor shut my eyes to the fact that the present alarming extent and threatening form of resistance and defiance have been consequent upon the tolerated practical nullification of the State of Georgia. The gentleman from South Carolina nearest to me (Mr. Miller) has assured us that such is the fact. Attempts have been vainly made to find a distinction between the two. In principle, they are identical. I regret that the gentleman from Georgia, (Mr. Forsyth,) in his endeavor to render his defence of the one consistent with his condemnation of the other, has deemed it necessary to assail the Supreme Court of the United States,—to pronounce the reasoning and argument of one of its most important decisions to be unworthy the lowest county court in any of the States! I can assure the gentleman that the country regards it far otherwise, and that the most vigorous and gifted minds deem it one of the most powerful productions of the wonderful intellect of the revered chief of that august tribunal. If, in the inscrutable ways of Providence, our institutions are destined to be subverted, and left in ruins by the convulsions of revolution, that decision, and other kindred constitutional opinions from the same mind, will remain to after generations, splendid and enduring monuments of intellectual and moral greatness, and, like the broken columns and classic remains of Athens and Palmyra, be the wonder and admiration of successive ages. The time has arrived when the progress of nullification must be arrested, or the hopes of permanent union surrendered. The gentleman (Mr. Calhoun) assures us that his theory would make this Government a beautiful system! Beautiful as would be the proud and polished pillars which surround us, if resolved into their original rude and paltry pebbles; beautiful as the dashed mirror, from whose fragments are reflected twenty-four pigmy portraits, instead of one gigantic and noble original!

The triumph of that doctrine dissolves the Union. It must be so regarded by foreign nations; it is almost so even now. Already have the exultations of the oppressor, and the laments of the philanthropist, been heard beyond the Atlantic. They have looked with fear and hope, with wonder and delight, upon the brilliant



and beautiful constellation in our western hemisphere, moving in majestic harmony, irradiating the earth with its mild and benignant beams. Shall these stars now be severed and scattered, and, rushing from their orbits through the troubled air, singly and feebly sink into clouds of murky blackness, leaving the world in rayless night? Shall the flag of our common country, the ensign of our nation, which has waved in honor upon every sea, the guardian of our common rights, the herald of our common glory, be severed and torn into twenty-four fragments; and our ships hereafter display for their protection but a tattered rag of one of its stripes?

The gentleman (Mr. Calhoun) declares emphatically that this is a question of liberty or despotism. I believe it. In my conscience I believe it. If this Union be dissolved, despotism is the ultimate result. It requires no prophetic vision to see how it will be accomplished. Draw the line where you will, wars—frequent, inevitable wars—will ensue. Border nations have been considered natural enemies. History is little more than a record of their contentions. Human nature is not changed on this side the ocean. Indeed, there is hardly a nation, in any age or continent, which has given more unequivocal proof of devotion to military achievement, and a spirit of martial adventure, than the people of these United States.

Their having been once friends, so far from preventing or retraining, would but aggravate their mutual animosity. The sweetest substances become the most acrid by perversion. Fraternal feelings, corrupted or perverted, give new bitterness and intensity to hatred and revenge. We have already had two wars with Great Britain, who once held toward us a parental relation; and who can doubt that they would have been more frequent had we been separated only by an imaginary line? The different sections of the country, arrayed in arms each against the other, would know no bounds to their mutual exasperation. We should be told, in relation to the slave population, what the British Parliament were with respect to the Indian savages,—that they were arms which God and nature have put into our hands. It would, indeed, be a sacrilegious abuse of that hallowed name; but the argument would prevail; a servile war would be kindled. Relentless and fiendlike passions would be let loose to rage with unbridled license; and violence and havoc, conflagration and devas-

tation would ensue,—the horrors of which could be depicted only by the imagination of a Milton or a Dante. It would seem that the severe regions of the North would have less to apprehend from hostile invasions. Southern chivalry, even if not in requisition for the defence of their own sunny lands, would find little to invite them to arctic expeditions. Would they come to our rugged soil and more rugged clime, to our rock-bound shores and snow-capped hills? Would they penetrate a dense and teeming population of hardy, laborious, and unyielding freemen—every valley a Thermopylæ, and every hill a Bunker's—where “friends may find a welcome, and foes a grave?” The North is by nature the region of strength. It has been so from the days of Attila, King of the Huns, to Platoff, hetman of the Cossacks. The Northern hive would again swarm upon the blooming and honeyed fields of the South. But is there any consolation in this? In such a contest, victory is disaster, and defeat is death. If this Union shall be severed, free Governments will, for a while perhaps, exist upon its fragments. But on both sides of the dividing line must speedily arise a chain of fortified places and military posts, for protection against sudden incursions of predatory and border warfare, to which they are eminently exposed. Standing armies, to occupy these fortifications, and to repel the formidable danger of organized invasion, are the necessary consequence. A martial spirit will be everywhere excited, and military ambition universally dominant. One party will obtain success and advantages in the war, to counteract which the other must give additional strength to the executive arm. The first will resort to the same expedient to regain their preponderance, and the weaker will then concentrate all their power in the hands of one man, that it may be wielded with the most efficiency for their protection. Imminent danger of destruction, and the primary law of self-preservation, will silence the voice of liberty. Civil power will be merged, and military despotism wave its horrid and resistless sceptre over the ruins of the republic.

This Union is not only the citadel of our liberty, but the depository of the hopes of the human race. He who shall be its destroyer will go down to future ages, associated, indeed, with its founder, the Father of his country—but with a contrasted immortality. No halo of glory will surround his brows, but on his head will gather the hissing curses of all generations—horrible as the

snakes of Medusa. He will stand on the highest and blackest eminence of infamy—the detestation of mankind. If he meet not a traitor's death, he will fill a traitor's grave ; over which there will be no requiem but the groans of the oppressed and the execrations of the good. His monument will be of human bones, upon foundations slippery with human blood. However high may have been his elevation, his fall will be like that of Lucifer ; and, like him, sinking into his bottomless and boundless habitation of darkness and woe, he may exclaim :

“ Hail, horrors, hail ! And thou, profoundest hell,  
Receive thy new possessor.”



COLONIAL TRADE.





## COLONIAL TRADE.

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THE first speech of Mr. Sprague on the arrangement of the Colonial Trade with Great Britain, was made on the 3d of April, 1832. He then exposed the character, and predicted the effects of that arrangement. The two following speeches were made after the consequences had been developed by experience.



## COLONIAL TRADE.

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### WEST INDIA ARRANGEMENT.

IN SENATE, JANUARY 3, 1834.

THE following resolution, offered by Mr. Sprague, being under consideration, viz :

*Resolved*, That the Secretary of the Treasury be directed to communicate to the Senate, so far as the Documents and Returns received will permit, the Amount of Trade between the United States and the British North American colonies, the British West Indies, the Danish West Indies, and the Swedish West Indies, since the 30th day of September, 1832, distinguishing the Amount of American, British, and other foreign Tonnage, which has entered and departed to and from those Places respectively, or the United States generally. Also, the Amount of Imports and Exports of American and Foreign Produce, distinguishing between the same :

MR. SPRAGUE said, that his object in offering this resolution was to obtain an official statement of the present condition of the trade with the British colonies, insular and continental, lying in this hemisphere. This was considered a subject of deep interest some years ago, and he was persuaded it had lost none of its intrinsic importance. It was known that this subject had been a matter of controversy between the United States and Great Britain from the existence of the Government up to the year 1830, when the celebrated "arrangement," as it had been denominated, was made of the colonial trade. It was strictly a question of navigation, affecting the carrying trade of the United States. The whole matter of controversy was, whether the United States

should have an equal and fair participation in the carrying its own produce from this country to the ports for which it was ultimately destined, or whether an undue advantage should be given to Great Britain. Up to the year 1830, from the superiority of the American navigators, and the natural advantages which their country possessed from position in relation to that trade, the United States had had nine-tenths of the carrying trade existing between it and the British colonial possessions. The amount of British tonnage did not equal one-tenth of the American up to the period he had mentioned. How far it had been increased since the arrangement of the carrying trade in 1830 would be seen by the public documents. During the first year after this arrangement, the British tonnage in the direct trade to the West Indies arose to ninety-six per cent., and to the North American colonies exceeded the American; for every 100 tons of American there were 110 tons of British; and, in the succeeding year, ending September 30, 1832, the trade seems to have been still more diverted in the circuitous route through the northern colonies in British bottoms. The tonnage which departed from the United States was, in the direct trade, 66,769 American, and 19,357 foreign; while, to the North American colonies on our borders, there were 66,056 American, and 146,292 foreign—the foreign more than doubling the American.

The whole amount of tonnage which cleared from the United States for the British West Indies and British American colonies, both during the year ending September, 1832, was 132,825 American, and 165,649 foreign. Thus the foreign tonnage, which, prior to the *arrangement*, was less than one-tenth, has, under and by virtue of that diplomatic arrangement, actually exceeded the American! Such were the facts disclosed by the documents heretofore communicated, a tabular statement which he then held in his hand, well worthy the attention of the Senate; and he wished, by means of the resolution which he had offered, to ascertain the state of the trade to the most recent date.



*Statement of Tonnage employed in the Trade with the British West Indies and British North American Colonies, before and since the West India Arrangement.*

BEFORE THE ARRANGEMENT.

Average of American and foreign tonnage for ten years, from 1821 to 1830, inclusive; with the proportion which the foreign bears to the American.

	<i>Am.</i>	<i>Foreign.</i>	<i>Proportion Foreign bears to Am.</i>
British West Indies,	50,078	4,043	8 per cent.
British Am. Colonies,	77,492	7,467	9 6-10 "

SINCE THE ARRANGEMENT.

1831.

British West Indies,	36,440	16,937	46 7-10 "
British Am. Colonies,	77,737	85,916	110 5-10 "

1832. *Tonnage departed from the United States.*

British West Indies,	66,769	19,357	28 9-10 "
British Am. Colonies,	66,056	146,292	221 4-10 "

The resolution was then adopted.



COLONIAL TRADE.



## COLONIAL TRADE.

### WEST INDIA ARRANGEMENT.

IN SENATE, JANUARY 28, 1834.

A REPORT from the Secretary of the Treasury, presenting a Statement of the Trade between the United States and the British and Foreign West India ports, and the British North American Colonies, being communicated to the Senate :

MR. SPRAGUE observed that this report was in answer to a resolution submitted by his colleague, (Mr. Shepley,) some time since, and adopted when he was unfortunately absent from the Senate, and, therefore, he did not hear the remarks which accompanied the presentation of the resolution. He had seen the statement presented by that gentleman, and he asked the attention of the Senate, while he commented briefly on it, together with the facts presented by the report just read ; and he congratulated himself, and the State which he had the honor, in part, to represent, that his colleague had turned his attention to the subject. He (Mr. Sprague,) had full confidence that they would agree as to the facts and inferences that were to be deduced therefrom. From the beginning of this Government—nay, anterior to the establishment of the constitution—the subject of the carrying trade between the United States and the West Indies was considered one of deep interest to this country ; and, up to the year 1830, a diplomatic and legislative controversy had been carried on between the two countries, the object of which, on both sides, was to secure to itself the advantage of tonnage to be employed in that trade.



Great Britain had always been desirous to procure the products of the United States for her West India Islands. Their situation, and the peculiarity of their productions, was such, as to render our own productions essential—he had almost said—to their existence, but certainly to the prosperity of those islands. The object that the British had always in view, was to procure the transportation of those articles to the West Indies in British vessels. The object of the United States, was to secure to themselves a fair participation in the carrying trade, and to avail themselves of the advantages which their local and geographical situation gave them, united with their superior skill in navigation, so that their shipping should have the transportation of the produce of the United States to the West India Islands. That was the whole object, the whole aim of the controversy, as it was carried out from the beginning to the end. What were the expedients that the British resorted to from time to time? And let any gentleman look to the correspondence and diplomacy on the subject, with this key, and it would appear as plain and clear as daylight, that the entire object of the British was to secure to themselves the whole of the carrying trade. The whole of their efforts were directed to that end—not to prevent our produce from being carried there. They wanted it; but wished to get it in their own vessels. It would be seen, in their proposition, that there was a list of articles, which articles might be carried to the North American provinces free of duty, but not to the West Indies. Why was that? It was that our vessels might carry the produce they required, across the line, a hundred rods, in order that British vessels should take it from thence to Jamaica, Barbadoes, or any other of their islands. They were willing that we should carry it across the line, and give it a circuitous direction, if the United States would consent to allow them to take the produce in British vessels, from one port to another—our vessels not being permitted to trade with the colonies.

Look at the result of the arrangement which has been made on the subject-matter of the controversy. What, he would ask, were the deductions made from the statement the other day? It was, that the British had always desired to have our produce carried in their vessels. As to the effects on the tonnage interests of the Northern cities, they were clear, and such as must have reasonably been anticipated. The arrangement, as soon as it was made,

was known to be a surrender of the matter in dispute on the part of the United States. It was so considered by Mr. Herries, in the British Parliament. He said that the United States had made an unconditional surrender of her pretensions, which she had got up in relation to that claim, and our own minister at the court of St. James, when he received the act of Congress of 1830, said that, according to his construction of it, on which he acted, it unequivocally surrendered all the claims that had ever interfered with the objects of the British.

Upon these two concurrent authorities, the British, themselves, and the Minister of the United States, we had surrendered the matter in controversy, and he (Mr. Sprague) supposed there would be very little diversity of opinion on the subject—certainly not among those who understood it. Taking the statements which had been presented, presuming them to be perfectly accurate—(for he had not had an opportunity to look into them)—and keeping in view the object of the British, let gentlemen look and see whether, in effect, the trade has not been diverted, and whether it is a direct trade now with regard to exports.

From the Statement, it would be seen, that the exports to all the West Indies are less now, and have been less since the arrangement, than in several years before, say in 1823, '4, '5, '6, '7, and '8; that the exports, in the aggregate, to all the West Indies, for the two years since the arrangement in 1830, are less than those of any two years before 1830, in the whole term embraced by the statement; that the exports to the British West Indies are less now than they were in 1826; that the exports to the British North American Colonies are more now, and have been every year since the arrangement, than they ever were before. For instance, the exports were now \$1,425,185, and, before the arrangement, the highest amount was \$3,830,674. Thus the direct trade was less since the arrangement, and the circuitous trade was far greater than it ever had been before. Having said this as to the exports, he would now proceed to the tonnage. The American tonnage in the trade to all the West Indies, for the two years since the arrangement in 1830, has been less than during any two years prior to 1830; while the foreign tonnage, in the same trade, has been, during the same two years since 1830, much greater—nearly three times as much as in any two years prior to that time, and the American tonnage to the

British West Indies has been less, each year, since the arrangement, than in several years anterior, viz.: 1823, '4, '5, '6. The foreign tonnage, in the same trade, has been greater every year since the arrangement, than it ever was before; and has, during the last year, been nearly three times as much as in any year prior to the arrangement.

The American tonnage to the British American colonies, was, in 1831 and 1832, less than in some prior years; but, in 1833, it was greater than ever before, while the foreign tonnage in the same trade, was never, prior to the year 1830, more than 12,023 tons, but, in 1831, was 94,776; in 1832, was 108,671, and in 1833, was 297,953; being more than twenty times as much in 1833, as ever it was before. He wished the Senate to recollect this last mentioned fact. The statements he had made on a former occasion, were confirmed by the report just received—for it would be seen, that, prior to the arrangement, the British tonnage employed in the trade to the British West India islands, and British North American colonies, was not equal to one-tenth of the American, but, since, had actually risen to an equal amount. Before the arrangement, we had always more than nine-tenths of the carrying trade; but, since, we have but about one-half. But even this does not exhibit the actual advantages gained by the British, because a great proportion, more than three-fourths, of the tonnage we have employed to the North American colonies, just cross our lines, and thence the British vessel takes the cargoes to the West Indies, having the benefits of the long voyage in transporting even those articles which our vessels convey in the first instance from our ports. In the statements presented, no notice was taken of the exports of foreign produce, which British vessels alone can take, in direct violation of our statute of 1829.

## REMOVAL OF THE DEPOSITS.





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Soon after the accession of General Jackson to the Presidency, he determined to bring all officers and agents of the Government, who were within the reach of Executive power, to profess his views and sustain his measures. This, by a bold and felicitous misnomer, was called a system of reform. Into this system, it was attempted to bring the Bank of the United States ; but its President and Directors refused. For this cause, General Jackson made war upon that institution. In the progress of that war, the Bank resorted to measures which are wholly indefensible, and justly brought upon it the indignant condemnation of the public. These subsequent misdoings have so reflected back, and been so confounded with its previous conduct, as to excuse, in the general mind, the original attack, which, when made, was without any ground of justification. In carrying on hostilities against the Bank, the President determined to remove the public moneys from its custody ; a measure so extraordinary, that, in order to accomplish it, he was obliged successively to remove two Secretaries of the Treasury, of his own appointment, before his order would be obeyed. In the session of 1832, Congress had passed a resolution, declaring that the public moneys were safe in the Bank of the United States. During the recess, the President determined upon their removal. Mr. Lewis McLane, then Secretary of the Treasury, was unwilling to comply with the President's wish in this respect, and was transferred to the Department of State. Mr. Duane was appointed in his stead, but he also refused compliance, and was immediately dismissed from office. Mr. Taney, then Attorney General, was appointed in his stead, and gave the order for the removal of the Deposits to such State banks as had been selected for that purpose. Upon the next meeting of Congress, the Secretary assigned his reasons for this act. At a very early day, Mr. Clay introduced, in the Senate, a resolution strongly condemning this measure. An earnest and animated debate followed, in the course of which, Mr. Sprague delivered the following speech.



## REMOVAL OF THE DEPOSITS.

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THE Senate having under consideration the Report of the Secretary of the Treasury, laying before Congress his reasons for removing the Public Deposits from the Bank of the United States, and the following resolutions, submitted by Mr. Clay :

1. *Resolved*, That, by dismissing the late Secretary of the Treasury, because he would not, contrary to his sense of his own duty, remove the money of the United States in deposit with the Bank of the United States and its branches, in conformity with the President's opinion; and by appointing his successor to effect such removal, which has been done, the President has assumed the exercise of a power over the Treasury of the United States not granted to him by the constitution and laws, and dangerous to the liberties of the people.

2. *Resolved*, That the reasons assigned by the Secretary of the Treasury for the removal of the money of the United States, deposited in the Bank of the United States and its branches, communicated to Congress on the 3d day of December, 1833, are unsatisfactory and insufficient :

MR. SPRAGUE addressed the Senate as follows :

MR. PRESIDENT: It is in vain that gentlemen attempt to escape from the issue now presented. It is in vain that they endeavor to make it a question of the renewal of the charter of the bank. The Senator from Georgia (Mr. Forsyth) commenced with that declaration, and proceeded in his own speech conclusively to disprove it, by declaring himself in favor of a renewal of the charter, and arguing long and eloquently in support of the removal of the deposits. It is not a question of the renewal of the charter; it is not a question of the restoration of the deposits; for

any one may vote against both, and yet condemn this new stretch of Executive power. It is a broad and fundamental question of the distribution of the powers of this Government among its co-ordinate branches ; a question in which, as Mr. Jefferson has profoundly remarked, is involved the existence and preservation of liberty.

What has been done ? The act which more immediately gives rise to this discussion is called "the removal of the deposits ;" a name, which, to most minds, carries a very inadequate idea of the thing. Permit me briefly to describe it. The Congress of the United States, the supreme legislative power of the nation, created an artificial person for the sole purpose of constituting and continuing it the *fiscal agent of Government* ; they having no power, and pretending to no right, to bring it into existence, or continue its being for any other object. This agency was to consist in its receiving, retaining, and distributing the public moneys, and regulating, by its influence and connexion with the Government, the currency of the country. *The Executive has removed this agent from office, and appointed another in his stead.* The former was created, guided, regulated, controlled, restrained, and governed by *known and fixed laws* ; subject to visitation by committees of Congress ; bound to make frequent reports which Congress could reach ; and liable to have its existence terminated upon process to be ordered by Congress, if it should transcend the law of its being. The latter is *the mere creature of Executive will* ; appointed by him to do what he commands, to abstain from what he forbids ; removable by him, governed by no law but his pleasure ; subject to no visitation by Congress ; bound by no statute to make any returns or expositions of its doings. This agent, so appointed, is to have in its possession the average amount of six millions of public money, to be used or loaned at pleasure, for its own benefit ; is to receive and disburse annually, more than twenty millions of the public revenue ; to have the use of its notes indefinitely increased, by constituting them the circulating medium of the country, so far as the influence of the Treasury can accomplish that purpose. The treasure and strength thus acquired, and the banking capital upon which it is ingrafted, may be dispensed in purchases and disbursements, in loans and discounts, in facilities, accommodations and indulgences to friends and partisans, to contractors or officers, to central committees or separate agents, for speculation and stock-jobbing ; or to swell political

funds, direct political action, and consolidate and enlarge political influence.

This fiscal agency is indispensable. It may change forms, but it is incapable of annihilation. It is inherent and co-exists with civilized communities ; without it, our Government never has had and never can have life, motion, or being. It is represented as a dangerous, a terrific power. Shall it be under the control of Congress, limited, restrained, and surrounded by fixed *laws* ? or shall it be left to the sole, unguided, ungoverned, undefined will of ONE MAN ? Its union with banking capital has conjured up in the friends of the administration the most terrific images of terror and alarm, even when bound down by fixed legislation, and in the keeping of Congress ; have they no fears when it is united with three times as much banking capital, under the sole control, and at the mere arbitrary will, of *one man* ? This great and alarming power is now to be added to what, in all free Governments, in all ages, has been the most dangerous and alarming of all powers—a single Executive chief. This great monopoly, as it is called, is to be united with the greatest of all monopolies in human society—a single Executive. The Bank of the United States has been represented by all sorts of hideous metaphors and comparisons. It is a mammoth—a wild beast to be slain, lest it should rend us in pieces, although encaged and chained by the bolts and bars of law ; and in its stead the *President* is to let loose upon us a whole caravan of wild beasts ready to flesh their teeth in any victim ; and of which *he* is to be the sole keeper. It is unconstitutional for *Congress* to have one bank, but not for the *President* to affiliate, adopt and control a hundred !

This measure, momentous as it is in itself, is of still more portentous import when viewed in its connexion as part of a system, as the last only of a series of acts all running in the same direction, swelling the same current of patronage, and accumulating power in one great and all-absorbing reservoir. It was not the tea tax merely against which our fathers took up arms. Read the Declaration of Independence—it is not even mentioned as one of the causes of the Revolution. It was the form only in which a principle was embodied ; the last of a train of measures for establishing unlimited dominion.

The gentleman from Virginia (Mr. Rives) compelled, by the overwhelming testimony which is borne upon every breeze, to



admit that there is wide-spread distress in the community, warned us not to mistake the symptoms for the disease. His advice is wise and scientific; for, when a limb is convulsed from internal agony, to tie it down and keep it motionless can yield no relief. What, then, is the disease? The gentleman thinks it is found in that newly discovered source of all the ills that flesh is heir to, that "*monstrum horrendum ingens informe*," the United States Bank.

Sir, there is a much deeper, more inveterate, and all-pervading disease; one which is felt in every fibre, and distorts every feature of the body politic; which penetrates the walls of this Capitol, and, even here, mingles in our debates, and infects our legislation; which, like the insect curses of Egypt, enters even our bed-chambers and our kneading-troughs, poisoning the very atmosphere with a political miasma. It is the disease of President-making.

And this has a cause,—a deep, abiding, growing, aggravating cause.

Why is it that the experience of mankind has pronounced an elective monarchy the worst form of Government on earth? Is it not that a crown is too splendid a prize to be won or lost by peaceful contests of elections? And is not the Presidency becoming so brilliant an object as to dazzle the eyes of aspirants, and its patronage so powerful a stimulant as to inflame, nay, to infuriate the passions of friends and partisans? Does not the successful candidate, and all his official dependants, from the first moment of his investiture with the robes of office, look to the succession? Are not the political elements constantly agitated? The lashing waves are not permitted to subside, before another storm lowers in the horizon. And is there not danger that contest will succeed contest, convulsion follow convulsion, until the people, the honest, single-hearted, disinterested people, disgusted and exhausted by the endless repetition of fruitless conflicts, will retire from the arena, and leave the great machine of Government in the hands of needy, hungry, and profligate political adventurers? Is there not danger, when the all-pervading disease is becoming more and more inveterate, when the importance and the patronage of the Chief Magistrate is rapidly increasing? From the birthday of our constitution, the march of executive power has been onward. The course of legislative action has often been arrested; judicial decisions have

been questioned and denied; but the enlargement of executive prerogative has never been stayed. No power which it has once exercised, no claim of power once advanced, has ever been yielded or wrested from its grasp. Its precedents are tracks to the lion's den, from which there are no returning traces. Do you want proof? The examples are before us even in this debate. The gentleman from Virginia (Mr. Rives) held up the decision of 1789, in favor of a constructive power of removal from office in the President, as conclusive authority, at the moment he was denying any weight to the decision of 1791, in favor of the right of Congress to incorporate a bank. And what renders it not the less remarkable is, that the first, giving constructive executive power, was made by the casting vote of the then Vice President, the elder Adams, to whose political opinions the gentleman accords so little deference as to the rights of other co-ordinate branches. He cited Mr. Madison's example when it tended to countenance the prerogative of the President to arrest the legislation of Congress, but denied the same authority when it sustained the right of the National Legislature in relation to this very charter, which was approved by that great man himself.

Let us look at things as they exist. Was there ever a period when the United States' Government was as strong as now?—when there was so little ability in the States, or other extrinsic bodies, to withstand the united, coöperating action of all its departments? Ask the most zealous devoted friends of State rights, they will tell you—they have told you, that these rights are prostrate at the feet of the General Government, and exist only at its mercy.

Was there ever a time when Congress was so weak, when the Judiciary was so weak, when the Executive was so strong—by any comparison so strong—as now? Was there ever a time when the balance and just distribution of practical power was so utterly destroyed?

Let us not be deluded by names and theories. But, like men—practical men—engaged in the affairs of a great nation, let us have the courage to look at the actual workings of this great machine of Government, and see results as they are coming upon us. Is it not true, in this republican country, where one man should be nothing, and the community every thing, that it has come to pass that the community is nothing, and one man is every

thing? Do we not feel and know that the destinies of this nation are, at this moment, in the hands of a single individual? Is it not matter of boast—boasted of here, and that, too, by the gentleman from Virginia, (Mr. Rives,)—that a single individual has produced, and is carrying on, a revolution in our Government?—ay, sir, a revolution, in which the gentleman exultingly told us that the will and policy of the nation, as to internal improvements, had been resisted and defeated by one man!—in which the great system of American industry, built up and consolidated by the interests and feelings of a vast majority of the people, has been prostrated by the will of one man,—in which the Bank, strong as it was in its own energies, and the unlimited confidence of the community, has been struck down by the same iron hand, and is crumbling into dust?—and, he might have added, in which the wishes and rights of a large majority of the States, and their citizens, as to the disposition of our vast national domain, have also been arrested, baffled, and defeated, by the same uncontrolled power of one man.

And yet the gentleman talks of democracy, and claims to be a republican! Do we not know that the policy, the systems, and the institutions which that single power has struck down, might, had it been his will, have been now standing and flourishing in the greatest vigor? Do we not feel that a single individual at this moment holds the institutions of our country in the hollow of his hand?—that, should he choose to lay it, in wrath, upon the navy of the United States, he would submerge it beneath the waves, leaving scarce a trace of its existence, save the reflection of its former glory?—that even the Judiciary would be palsied in his grasp? Who does not remember when, some two years since, it was supposed that a judgment of the Supreme Court in relation to the Cherokees would conflict with his will; that the whole partisan press, and all the partisan corps, were rallying to a deadly assault upon that august tribunal and its venerable head?

How is it at this moment? Is not this whole nation becoming agonized in every fibre, at the tones of his single voice? He has spoken, and the currency—the lifeblood of the country—is curdling in the veins of this whole republic. His breath is spreading blasting and mildew over this fair and happy land, shrouding its bright and beaming surface in darkness, gloom and dismay.



Let us revert for a moment to the past. Has not the present Chief Magistrate made large encroachments upon the authority of the other coördinate branches, and unwarrantably increased and extended his own?

How has he used that tremendous instrument—the veto power—which was transplanted into our constitution from the prerogatives of the British king, but which the spirit of English liberty would not tolerate in modern times; and the monarch, who should dare to exert it there as freely as does our republican President here, would, as we are well assured, hazard more than his throne. The gentleman from Virginia, (Mr. Rives,) in searching for precedents to justify its exercise by the present Chief Magistrate, was driven back more than one hundred and forty years for the last example in British history, to the reign of William III., who, he told us, was brought in by the whigs, and exerted his prerogative for popular rights. The gentleman has not been as felicitous as usual in his historical recollections. True it is, in the revolution of 1668, William was brought in by the friends of liberty. But how did he use the power thus generously conferred? The historian answers in these emphatic words:

“Success, which ever enlarges the noble mind, shrunk William’s to all the littleness of vulgar character. When raised to imperial dignity by the efforts of the whigs, for the generous purpose of enlarging and securing liberty, he abandoned his benefactors, and entered into dishonest intrigues with the tories, in order to increase the influence, and extend the power, of the crown.”

The gentleman spoke of a faction in the Lords. He did not explain himself. But, if his remark had any significance, permit me to remind him, upon the authority of the same historian, the faction which existed in the Lords was a tory faction, with which William united himself to enlarge the prerogatives of the crown.

When the veto power was about to be incorporated into our constitution, it encountered strong opposition. It was distasteful to the American public. What was the argument urged to assuage their fears? We have it here in this book, the *Federalist*, in a number written by Alexander Hamilton, while the constitution was before the people for their adoption.

He told them that—

"A king of Great Britain, with all his train of sovereign attributes, and with all the influence he draws from a thousand sources, would, at this day, hesitate to put a negative upon the joint resolution of the Houses of Parliament."

And again—

"If a magistrate so powerful and so well fortified as a British Monarch would have scruples about the exercise of the power under consideration, how much greater caution may be reasonably expected in a President of the United States, clothed, for the short period of four years, with the executive authority of a Government wholly and purely republican."

It was an *a fortiori* argument from the long disuse of this prerogative of the British crown. He said further, that the primary object in giving to the President the possibility of using this negative was self-preservation; to enable him to resist encroachments upon the Executive, and preserve the just constitutional distribution of power.

The fears of the people were thus allayed, and upon these arguments the veto was given. How has it been used? During the first twenty years, it was exercised, I believe, but once or twice; it had subsequently some unnoticed growth in the hands of Mr. Madison; but, by the present Chief Magistrate, in less than five years, it has been exercised more freely, and on more important occasions, than during the whole forty years of all his predecessors. Memory at once presents some of them:—the Maysville road bill; the Washington turnpike bill; the lighthouse bill; the Louisville and Portland canal bill; the bank bill; the harbor bill; the land bill; and even the bill allowing interest to certain States upon moneys paid by them for the United States during the last war,—a measure of justice which, with the approbation of the President, had been previously extended to South Carolina, but which he chose to negative, upon his own views of mere expediency, without pretence of constitutional objection; claiming and exercising the right to control and reject the measures of Congress upon any occasion, and for any cause, as his views of policy might dictate! And this is republicanism! Sir, the federal doctrine of that ultra-federalist, Alexander Hamilton, as to this executive prerogative, is, in comparison with the practice of this self-styled democratic administration, as milk and water to aquafortis.



That which was intended to be the "extreme medicine" of the constitution, "has come to be its daily bread."

But suppose Congress, notwithstanding the potency of executive influence, should pass the land bill, or the improvement bills, by more than two-thirds of both branches, it would then become a law—so says the constitution—but so does not say Andrew Jackson. He has put forth a new prerogative, by which all laws are subject to his supervision. He is to support the constitution "as he understands it." Constructions by his predecessors, constructions by Congress, constructions by the Judiciary, have upon him no binding obligation; and, if they do not quadrate with his constitutional notions, need not be carried into execution.

And this is not a naked theory. He has practised upon it, not only in the vetoes where the doctrine is embodied, but in his refusal to carry into effect solemn and sacred treaty stipulations,—treaties which had been established as the supreme law by the constitution itself, and been recognized and enforced from the first moment of its adoption; treaties formed by every preceding President—Washington, Jefferson, Madison, Monroe, and both the Adamses—ratified by every Senate—confirmed in appropriations by every House of Representatives, and sanctioned by the continued acquiescence of the whole nation for forty years. He has practised upon it in refusing to execute the Indian intercourse act of 1802,—approved by Mr. Jefferson, and enforced by him and all his successors.

Pause—contemplate the magnitude of this assumption. Our Government was designed to have three great, coördinate branches; the Legislative, to enact; the Judiciary, to interpret; the Executive, to enforce; and neither to trench upon the province of the other. But the President now sets himself up as supreme judge over both the other departments, to review their decrees, and rejudge their judgments. *We* may make solemn legislative enactments, and what can we do with them?—enter them on record in the Secretary's office. The courts may pass their solemn judgments, and what further can they do?—record them in the office of their clerk. But both are as lifeless as the dead parchment upon which they are enrolled, unless the Executive shall impart vitality and energy by carrying them into action. But, by this new prerogative, he may leave the whole, or any part, to eternal silence and oblivion. He has only to say to his marshals, or other infe-

rior officers, "Execute no law or process upon pain of instant removal," and it is done. The whole statute book is at his mercy. Sir, a dispensing power like this is denied to the British king by the very first article of the Bill of Rights of William and Mary; and Magna Charta, that nearest approach to a written constitution in England, is not and cannot be subjected to royal interpretation. I say this upon the authority of a book now before me. Long and dire experience has there taught them that, if a single Executive be permitted to give construction to laws and constitutions, to become the interpreter of his own powers—there will soon be no other powers in the kingdom, and no constitution but his will.

A king of England or France, who should at this day disregard the acts of the Legislature, or the decrees of the Judiciary, would not only shake their thrones, to their foundations, but might soon behold in their stead the bloody scaffolds of Louis, and of Charles! Shall a *republican* President have prerogative over both?

There is one new device for the extension of Presidential power, so anomalous and extraordinary, that it is difficult to classify or characterize it. It may, perhaps, be denominated the splitting veto, or partial dispensation; by which, as in the case of the Michigan road bill, in 1831, the President, when an act of Congress is presented, accompanies his approval with an explanatory message, (by way of rider,) limiting and restraining, its meaning and import; thus, in effect, approving in part, and vetoing in part; whereby a precedent is established, by which, should it have its natural growth, if an appropriation bill were to be accompanied with conditions and limitations, he might accept the agreeable portion which gave the money, and reject obnoxious restrictions upon its use.

Is it not true—disastrously true—that the same hand now grasps the *sword* and the *purse* of the nation? now controls the army, the navy, and the treasury? We are told that the President only determines *where* our treasure shall be kept, and *who* shall have the custody. He has *only* power, by his single will, of placing the whole or any part of the public moneys, in the hands of any corporation, or any individual, or any number of individuals, at any time, or any place, upon any condition that may suit his pleasure; that, if a military expedition, or any other purpose,

were in contemplation, he might make the Paymaster General, the Commissary General, the Fourth Auditor, or any other officer, agent, or partisan, the depository of the public moneys!

Sir, the man who should abstract the contents of your pocket, and put them into his own, would only change the place of deposit.

But the Senator from Virginia (Mr. Rives) tells us there is no danger, because the President cannot raise money. Did the gentleman forget that permanent revenue laws already exist, that the streams now flow into the Treasury, from a perennial source, to be intercepted only by new acts of legislation, which the veto power stands ready to suppress? But the President cannot raise money—so says the Senator from Virginia, so says the constitution; Congress, and Congress only, is to lay imposts, and “*borrow money.*” But, within the last year, the Chief Magistrate, by one of his Departments, for which, as his friends all admit, he is responsible, whose acts are his acts, *has borrowed* FOUR HUNDRED THOUSAND DOLLARS! And if that sum may be borrowed for the Post Office, without law, why may not four millions be borrowed for the Treasury, or forty millions for the army?

The fathers of the constitution, well knowing that a single Executive had, in all ages, been dangerous to liberty, intended to erect around him a firm and impassable barrier, in the Senate of the United States; and especially by the requisition of their concurrence in appointments to office.

But ingenuity has found means to evade and nullify this inconvenient restraint. The President may temporarily fill vacancies, which *happen* in the recess, by commissions, to expire at the end of the next session.

Two implications have been found sufficient to accomplish the object. The President, by removal, may *cause* a vacancy to *happen*, in the recess, which he may fill until the end of the next session of the Senate, and then the vacancy, which commences *with* the recess, is *construed* to be one *happening in it*, to be again filled by the President until the end of another session, when the same process may be repeated. Has this been done? I will not dwell upon the notorious case of Indian agents—nominated—rejected—and subsequently continued in the discharge of the same official functions! I will not pause upon the recall and



appointment of foreign ministers. I proceed at once to the case of Samuel Gwinn, who was appointed in the recess to a land office in Mississippi; nominated at the next session, and rejected; renominated, that the Senate might *reconsider* their vote, which the Senate declined, and laid the nomination upon the table from a well known determination not to approve it. The session expired, and—he was forthwith reappointed to the same office!! This precedent has but to be followed out, and the power of the Senate over appointments is annihilated. Suppose the present Secretary of the Treasury—I put the case only by way of illustration—who has been appointed in the recess, should be nominated and rejected; he will retain his first appointment until the session shall close, and then may be instantly reinstated and continued in office in defiance and contempt of the Senate!

It was once supposed that, in the discharge of our high constitutional duties, as advisers of the President, we were free agents, having the right to form and express opinions for ourselves. In this belief, we some time since placed upon our own records, as a guide to our own conduct, an opinion in relation to appointments. We had the temerity to say, that, in our judgment, it is inexpedient that persons living in one State, should be appointed to offices in another, without manifest necessity; and thereupon the President comes here, by his message, and tells us, that we have no right to express such an opinion; that it is unconstitutional! He lectures the Senate upon its rights and duties, declaring that, until they shall reverse their judgment, he will make no more nominations to certain offices. The resolution was rescinded by the vote of seventeen members, late at night, when twenty-six only were present.

But the action of the Senate is not now in accordance with Presidential will; and for this, it is announced, in the official organ, that it is committing *SUICIDE*. We see and feel the fearful array that is attempting to accomplish the predicted destruction. The storm of calumny and violence is raging upon us, because, true to the purpose of our being, we have dared to resist Executive encroachment. We may be prostrated; but if we are, the best hopes of the human race will be extinguished. Liberty, herself, will perish in the fall. Her last shriek will echo from the ruins of the Senate.

But we are told, and it is constantly reiterated in our ears, that, in all these assumptions and claims of prerogative, the President is sustained by the PEOPLE.

It is time that we came to an understanding—a full understanding—upon this important matter. The PEOPLE are the fountain of all power; they are politically *omnipotent*. They can make and unmake, constitutions at pleasure. But *they cannot have moral incompatibilities*. Omnipotent as they are, they cannot have *an elective monarchy, and a constitutional republic at the same time*. Let it then be distinctly understood, that these two tremendous powers, the Executive, and the people, cannot meet, and in their coming together, crush the Legislature, the Judiciary, and the Senate between them, *and still leave a constitutional republic*. It was such a meeting that crushed the Senate, and the liberties of ancient Rome, and placed the blood-stained Cæsar upon the throne. It was such a meeting that extinguished the legislative assembly, and annihilated the hopes of republican France, and elevated Bonaparte to imperial power. We have been admonished, warned, if not threatened here, in this debate, that, if we bow not to Executive will, we shall be driven from this hall by ruffian force, as Cromwell expelled the Rump Parliament! Let us, then—let the PEOPLE then understand the catastrophe, that is predicted. If it be their will to prostrate the constitution of their country, they can do it. But, sir, it is not their deliberate will—no, no, no.

The people love their constitution, their liberties, and themselves. They are always politically honest, for political honesty desires the greatest good of the greatest number; they are that greatest number, and must desire their own greatest good. But they are not infallible. I should be false to all history, false to human nature, false to holy writ, if I could so flatter the people as to tell them that they are exempt from that great besetting sin, a proneness to IDOLATRY. It is of the nature of man to worship the work of his own hands, to bow down to idols which they have set up. Feeble, fallible mortals, like themselves, are canonized and deified. And oftentimes a military chieftain, having wrought real or fancied deliverance by successful battles—fervent gratitude, unbounded admiration, the best feelings of our nature, rush towards him; the excited imagination invests him with a glorious halo, circling around him all the splendid perfections and



dazzling attributes of heroes and patriots ; and then the strongest facts, the clearest evidence, and the most cogent reasoning, which expose his errors or ambition, excite only indignation and resentment towards their authors, as impious and sacrilegious revilers of the idol of their hearts. In the paroxysms of their devotion, they are ready at his shrine to sacrifice their rights, their liberties, their children, and themselves.

Such are the delusions which have placed the iron sceptre in the hands of the Cæsars and Bonapartes of past ages, and overwhelmed or jeopardized all the free governments of the earth.

So strong is this proclivity of our species, that, if there were to be a Government sent directly from Heaven, we may reverently fear that it would endanger its continuance. If there were to be, did I say? There has been: the theocracy of the Jews, whose history presents the most melancholy examples of this deadly sin. And is there not in this, our American Israel, which has been delivered from the house of bondage, guided through the wilderness, and is now in the land of promise—an *Idol Chief*, to whom our incense and our homage is demanded? Thank Heaven, there is a remnant still unsubdued and undismayed ; there are those, even here, who have not bowed, and will not bow, the knee to Baal.

Sir, this delusion will vanish ; the morning will dawn upon us ; the people, the honest, the pure-minded people, will awake—awake as from a dream—and look back upon these scenes as on the troubled visions of the night.

The delusion will be dissipated. But are not the priests of party intent, while its influence may yet prevail, upon settling the succession and securing the continuance of the dynasty? And is it not apparent, that this is to be accomplished by means of an army, not of soldiers with swords and bayonets, but of partisans—organized, officered, and disciplined ; with its legions and cohorts ; with its captains of hundreds, and captains of fifties ; its drill sergeants, and file leaders ; where no private judgments, no individuality, is tolerated, but all are to move *en masse*, to march, and countermarch, to wheel and change front at the word of command ; where there is but one principle of action, one all-pervading sentiment—*devotion to the chief*?

This army must be subsisted—must be sustained, either by present pay or hopes of future spoils. The people's treasury,

that great trust-fund collected from all, to be dispensed for the benefit of all, is to be seized upon; and all the streams issuing from it in salaries, contracts, jobs, and agencies, are to be diverted to the use of the party. Public offices, instituted for the benefit of all, are declared to be legitimate spoils. In appointing the thousands of officers, whose names are in this book,\* scattered throughout the country, drawing millions annually from the pockets of the people, what is the test and criterion of merit? Not what he has done for the *country*; but what he has done for *ME*: Not, will he be useful to the *public*? but will he be useful to *us*? Not, will he be faithful to the *constitution*? but will he be faithful to the *party*?

Since the political victory of 1828, the vultures have been screaming over the battle-field, and "even the cries of the widows and the orphan," could not scare them from their prey. A spirit of proscription, for opinion's sake, scarcely paralleled in the annals of free Governments, has swept in terror over the land, prostrating the purest, and the best, breaking down the independent, bending the feeble, and leaving the timid, like trembling slaves, to eat their bread in fear. Veteran soldiers of the revolution have been sacrificed for daring to exercise the freedom for which they fought! Officers of the late war, republicans of '98, patriots at all times, have been punished for daring, in a republican country, to breathe the language of freemen!

Where is *Melville*, the last of that gallant band, who, with the courage of Daniel of old, dared first to beard the British lion? That band who entered the British ships in the harbor of Boston, and cast the obnoxious tea upon the waters?—*MELVILLE*—who served in the army of the revolution, and, through all periods, was a pure patriot, and undeviating republican? He held an humble office, conferred upon him by Washington, which, in a green old age, he was daily discharging with delight to himself, and to the gratification of others; which he cherished, which was dear to his heart, as the pledge of his country's gratitude; it was rudely wrested from him; he was thrust from the public service to make place for a partisan successor!—Where is *HARRISON*—the republican soldier of Tippecanoe? *Cook*—the friend and compatriot of Washington? *Gerry*—the son of that early and revered patriot of the revolution, who once, as the second

\* The Blue Book.

officer in the Government, filled the chair which you now occupy, and whose dust reposes in the cemetery within our view? When that fervent friend of liberty, at the formation of the constitution, and in the debate of '89, raised his prophetic warnings, and solemn protestations against the enlargement of Executive power, and especially this control over public officers—little—little could he have imagined that *his own widowed wife and fatherless children*, were so soon to feel its withering grasp. His death left his family penniless. An office in the customs was bestowed upon the son by President Monroe, with the tacit understanding that the income should be devoted to the support of his mother and sisters. It was performed with scrupulous fidelity, until he was no longer permitted to continue that sacred office of filial and fraternal ministration. He was superseded by an accepted partisan!

Where is FILLEBROWN, also the son of a soldier of the revolution, a fearless and undeviating republican, whose only offence was, that, in 1824, and 1828, being an elector of President and Vice President, he did *not* give his vote for the present incumbent? The sin of the father was visited upon the son, who held a subordinate office here, upon which his family depended for subsistence, and whose duties he had discharged with devoted ability. He was ignominiously driven from it, branded with the foul charge of peculation; and, that his detection might be trumpeted as one of the achievements of reform, was daily held on high to the scorn and detestation of the public, pierced with ten thousand arrows of calumny. Humble and powerless, he had no refuge but a jury of his country. To that tribunal he appealed, and their verdict not only repelled the foul aspersions upon his name, but declared that the Government actually owed him some hundreds of dollars at the moment of his removal.

The gentleman from South Carolina (Mr. Preston) asked why did not the President go to a jury against the Bank? Send the President to the tribunals! He went there with Fillebrown, and again in the case of Nourse, again to find his charge of peculation repelled, and stamped with reprobation, as unfounded and unjust. Go to the tribunals with the recollection of the case of Watkins, still uneffaced! Watkins, who, having expiated his offences, great as they were, by suffering the sentence of the law, as a criminal, was subsequently confined in close jail for years, merely



for debt due to the Government ; during which time, a youthful son, in holy ministrations to the loneliness of the father, in the gloom and vapors of a prison, withered, sunk, and *died* ; but no beam of hope radiated from Executive mercy ! He remained incarcerated until the highest judicial tribunal pronounced the imprisonment *illegal*. The captive was set free ; but, ere he had passed yonder gates, before he had reached the expecting arms of his trembling wife, he was again seized, and, by an *illegal* process from unsated power, recommitted to the same prison !—from which he was again delivered by a judicial tribunal. And Randolph, too, still more recently arrested and consigned to prison by an *illegal* Executive warrant, was liberated by the judiciary, set free by the concurring decisions of a Barbour and a Marshall—MARSHALL—a name which will be venerated and admired so long as there shall be a votary of liberty and intellect upon earth. And, with this new decree still tingling in his ears, ask the President to go to the tribunals against the Bank ! No—no. He must have a shorter and a surer road to his object.

Pardon me this unexpected digression. I recur to the subject of removals. I ask the Senate to recollect how this power has grown up. Its history is one of the most instructive lessons of the progress of prerogative. It is nowhere found among the express grants of the constitution ; and, when that instrument was proposed to the people, they were told, *ex cathedra*, by the highest authority—the numbers of the Federalist—that it would not be possessed by the President alone ; that, as appointments could be made only with the approbation of the Senate, the *same concurrence* would be necessary to effect a removal. The constitution was thereupon adopted. In the Congress first held under it, came on the celebrated debate of 1789, in which, by the aid of implication, it was decided, by the casting vote of the elder ADAMS, then Vice President of the United States, that the power belonged to the President alone. This claim was, at one time, feebly attempted to be sustained as belonging *necessarily* to the Chief Executive ; but the doctrine, now so prevalent, that we are to go abroad to foreign writers for definitions of Executive power, and then confer all upon the First Magistrate that is not expressly forbidden him, had not then found favor. It was then known that the Executive power, mentioned in the constitution, was that which is *therein* defined and conferred. And the only clause from which

it was at last contended that such a right of removal could be extracted, was that which requires the President "*to see the laws faithfully executed*;" and, for that end, and that alone, was it contended that it could ever be legitimately exercised.

That debate should be read and pondered well by every lover of freedom. The warning voices of GERRY, White, and Sherman, were raised in vain. They declared, to use the language of the American Tacitus, that, "in the power over all the Executive offices, proposed to be conferred on the President, the most alarming dangers to liberty were perceived. It was in the nature of monarchical prerogative, and would convert them into the mere tools and creatures of his will. A dependence so servile on one individual, would deter men of high and honorable minds from engaging in the public service; and if, contrary to expectation, such men should be brought into office, they would be reduced to the necessity of sacrificing every principle of independence to the will of the Chief Magistrate, or of exposing themselves to the disgrace of being removed from office."

On the other side were Ames and Sedgwick, Vining and Madison, by whom, in the language of the same high authority, "the danger that a President could ever be found who would remove good men from office, was treated as imaginary." Yes, sir, the predictions that this prerogative would ever be exerted for party purposes, to gratify individual feelings or personal views, were treated as the chimeras of a gloomy imagination. MR. MADISON, the amiable, unsuspecting MADISON, declared "that the wanton removal of meritorious officers, (by the President,) would subject him to impeachment." "Such abuse of power *exceeds my conception*." \* \* \* "My imagination cannot extend to it on any rational principle;" and Mr. Vining declared that, if the President remove a valuable officer, it would be an *act of tyranny*.

And has it not come upon us? Are not the dark chimeras of 1789 the dread realities of 1833? Are they not here among us, around us, and upon us, seen and heard and felt in terror and oppression? The gentleman from Georgia (Mr. Forsyth) told us not to be moved by apprehensions now, because those who were alarmed at Executive prerogative, in the early days of the republic, subsequently acknowledged that their fears had not been verified. But if those great and good men, who now sleep with their fathers, had survived to the present day, could they now make the same



admission? Would they not declare that the shadows of their most gloomy predictions and darkest forebodings were closing around us in the process of actual realization?

In 1789, this power of removal was, by constructive implication, conceded to the President. How has it been exercised? For the whole period of forty years, which preceded this administration, the removal of civil officers, so far as can be ascertained by the public records, amounted to *seventy-three only*—less than an average of two per annum. During the twelve years of the administration of Washington and the first of Adams's, there were *twenty-two* removals—all, no doubt, with exclusive reference to the faithful execution of the law.

Mr. Jefferson's administration, so far from furnishing an example under which the present can find refuge, is, in truth, in contrast and condemnation of it. Upon his accession, he found all the public offices, almost without exception, in possession of his political opponents. Some of them, especially marshals and attorneys, had rendered themselves odious to the people, by uncalled-for zeal in enforcing the obnoxious sedition law. Others, as in the case to which the celebrated New Haven letter refers, had been commissioned in the last moments of his predecessor, thus depriving him of the appointment. The present incumbent found nearly all the public offices in the hands of his friends. Some became so, doubtless, from principle; others, from calculating selfishness. Secure in their places from the forbearance and uprightness of Mr. Adams, it was politic to propitiate his opponent by early adhesions. Such men have continued to be safe. There had been no enforcement of odious laws; and, instead of appointments, on the eve of his accession, in anticipation of his rights, the Executive action had been, for months preceding, suspended; and, upon the day of his inauguration, there were more offices vacant, the filling of which had been postponed for the purpose of conferring patronage on him, than the whole number of removals by Mr. Jefferson in his eight years. What was that whole number, as exhibited by the records? *Thirty-six only*,—less than five per annum. Some for the causes already specified, others, for known incompetency or misconduct. Mr. Madison, in eight years, removed *five* civil officers; Mr. Monroe, *nine*; and Mr. Adams—the reviled John Quincy Adams—in four years, made *two* removals; making the whole number

of removals of civil officers, from the adoption of the Constitution to the 9th of March, 1829, but *seventy-three*. And, within *one year* next following, being the first of this administration, there were, at least, one hundred and ninety-six, if not more than *two hundred* expulsions—double, nearly three times as many, as during the whole forty years of all his predecessors! And this, too, exclusive of *four hundred and ninety* removals of postmasters, to which are to be added hundreds of inspectors, clerks, deputy collectors, deputy marshals, secretaries, and other subordinates, swelling the number, doubtless, from *fifteen hundred to two thousand in a single year!* Nor did the work of proscription stop there. It went on, ever demanding new victims, and is, even now, unsated and unstayed.

This is the promised REFORM, and thus has the partisan *army* been recruited, subsisted, and sustained.

There was yet another promise—RETRENCHMENT. RETRENCHMENT was the war cry. The extravagance, nay, the abandoned profligacy of Mr. Adams's administration could no longer be endured; and the people were invoked to rise in their majesty to put it down, and transfer their treasure to other hands to save themselves from its corruption and enormous expenditures. It was done. And what is the result? Compare the expenditures in the two last years of the former and present administrations, exclusive of payments to the public debt.

#### A. D.

By Adams,	{ 1827,	\$13,062,316
	{ 1828,	12,653,096
By Jackson,	{ 1832,	16,516,389
	{ 1833,	22,086,064

Making a difference of nearly *thirteen millions* in the aggregate of the respective terms of two years. In addition to which, it is to be borne in mind, that, during the former, the system of internal improvements for the public good, consumed large sums, from which the present administration has exempted itself by the use of the *veto*. If this be deducted, the expenditure, exclusive of the public debt, during the last year of General Jackson's administration, will have been about *double* that of the last year of Mr. Adams's—the extravagant, profligate, and prostrated administration of Mr. Adams. And, in addition to all this, the Post Office

Department, which was left, by the able and virtuous McLEAN, in vigorous strength and credit, is now feeble, insolvent, and deranged; is largely in arrears to contractors; has borrowed *four hundred thousand dollars*; and is presumed to owe at least a MILLION!

We are told that money is the dynasty of modern States. Money will obtain partisans, and partisans will obtain money. Has not the progress of both kept even pace? The army of partisans must be recruited and sustained; new hopes inspired; new stimulants applied. Two great resources—the PUBLIC LANDS and the BANKING CAPITAL—still remain; the former peculiarly convenient for certain western and interior States; the latter, for a still greater number of the middle, northern, and Atlantic. And the South—the SOUTH must be content with the IDOL which they have set up, or live upon abstractions—the past visions of theoretical reform and retrenchment, or new expositions of proclamations. The land bill would have disposed of the proceeds of our immense and magnificent national domain, by a distribution so just and equitable, that it could never have been disturbed; and thus, like the tariff by the compromise bill, it would have been taken from the capital of speculating politicians; it could no longer have been made an element in political combinations.

The land bill was vetoed as unconstitutional, with an Executive recommendation that the price should be immediately reduced, and the whole eventually given to the States where they lie. It was unconstitutional for Congress to divide them among *all*, but perfectly constitutional, under Executive lead, to bestow them upon a *part*! It was vetoed, because, as the message informed us, the lands were a common fund, to be disposed of for the benefit of *all* the States; and yet the President would devise means of making them gratuitous donations to a *few* only. The *old* States, by whose blood and treasure they were acquired, could not even participate in the distribution; but the *new*, which had no existence at the time of their acquisition, might swallow up the whole with Executive approbation!

The BANKING CAPITAL.—Before proceeding to more recent events, let us pause upon a few reminiscences. When this administration came into power, it was announced that it would “reward its friends and punish its enemies,”—a system of *reform*—that is, of coercion or expulsion, would be vigorously enforced.



The several Executive Departments were at once organized upon this system. The Post Office alone stood aloof—John McLean was at its head. He would not become the instrument of proscription. He was too strong to be broken down, and therefore, against his wishes, was reluctantly transferred to the elevated station which he now so honorably sustains. A successor was found who had no such scruples, whose fraternization was complete; and the whole Department was at once brought to act efficiently in the harsh and discordant system.

The Bank of the United States presented the next obstacle. The President and a majority of the Directors were not removable at the pleasure of the Chief Magistrate; but it was hoped that the influence of the Treasury would be sufficient to mould them to its purposes. The attempt was first made through the Secretary of the Treasury to remove the President of a remote branch, the easternmost, save one, because of his *political* opinions and associations. Mr. Biddle did not acquiesce. He informed the Secretary that the Bank had *never interfered with politics*; that it was the friend of all administrations; *the political instrument of none*. The attempt was baffled. And in the next annual message of the Chief Magistrate, the Bank itself was for the first time denounced, and a new one, *founded upon the revenues of the Government*—which means a Treasury Bank—under the control of that Department, was recommended. This new project was unequivocally condemned by the Committee of Ways and Means, in an able and elaborate report, and found no favor in either House of Congress. Its adoption by the Legislature was therefore hopeless. The object, however, was not abandoned by the Executive, but a new mode was sought for its accomplishment, by the transfer of the deposits—in other words, the removal of the Bank from its fiscal agency, and the appointment of others under the control of the Treasury. But the only ground upon which it was even then suggested, that such removal could be justified, was the *insecurity* of the public moneys. The President, therefore, in a message to Congress, assailed the Bank as *unsafe*—*unsafe*, repeats the Secretary of the Treasury—*unsafe*, re-echoed a distinguished member in the House—*unsafe*, thundered another, on the floor of the Senate. But members could not be made to believe what was palpably unfounded; and the resolution of insecurity was rejected in the House by a vote of one hundred and nine to forty-six.

The purpose of the Executive remained unchanged. The action of Congress, which seems before to have been necessary, could then be dispensed with. Nay, the opinion of the House, which had been courted, was instantly contemned. The vote passed on Saturday, and, on the Monday following, the *official organ* assailed it with the accusation of being under the influence of the Bank, and endeavoring to "control the appropriate action of the Treasury Department."

Congress being thus refractory, the object must be accomplished by the President alone. "I TAKE THE RESPONSIBILITY," followed.

Mr. McLane could see no justifiable grounds. He was transferred to another Department. His successor was equally unbelieving and more uncompromising; he was struck down, and the Executive power strode over him to the Treasury. It was accomplished! A new fiscal agency was established, by league banks, under the control of the Treasury. *The system of reform was complete.* It was done in contempt of Congress, sixty days only before its annual meeting. The President, with military boldness, throws himself in advance; and his friends now mock us with declarations that the Legislature may act upon the subject, when it is known that his tremendous veto stands ready to paralyze every effort for restoration. It was accomplished by the power of removal, conferred, by implication, for the sole purpose of seeing the laws faithfully executed. This was the extent even of the federal doctrine in 1789. What *law* was to be executed requiring the expulsion of Mr. Duane? None—none! The law left it to *his* fiscal discretion, and when *his* judgment was exercised, the law was executed. But we are told that Congress cannot, by law, vest a discretion which the President may not control. That he has a right, as the Senator from Georgia says, to go into the Auditor's or Comptroller's apartment, and say, Allow this account and reject that, upon pain of instant dismissal; and, of consequence, may go to the commissioners now sitting under the French treaty, order them to admit one claim, or reject another; and, if they hesitate, expel them, and appoint subservient tools in their stead! All, all, over whom the removing prerogative can be stretched, are merged in a single Executive will. When the judges of England held their offices at the pleasure of the King, he was not permitted, as is well known, to go to the



bench and dictate their decisions. Can a doctrine *too arbitrary for the British monarchy* take root in the soil, and flourish in the air, of *this free republic*?

The Senator from Georgia informed us that, in an opinion delivered by the Chief Justice of the United States, it was declared that the charter of the Bank had been violated. But he could not recollect where it was to be found. No wonder—

“For it requireth optics keen,  
To see what is not to be seen ;”

and it must be a good memory that recollects a fact that never existed. If the gentleman had reference to the dissentient opinion of the Chief Justice in the case of the Bank *vs.* Dandridge, he will find no such declaration.

But to return. When that important fiscal discretion was vested in the *Secretary*, was any other officer in contemplation than one of some permanency, and of financial experience and ability, who had passed *the ordeal of the Senate*? Was it ever imagined that it was to be exercised by a three days' Secretary, a mere *locum tenens*, brought in during the recess of the Senate, by setting aside and trampling down his more experienced predecessors? Had they ever beheld the pageant of flitting Secretaries passing before their eyes like the phantasmagoria of a magic lantern? Would Congress, would this body, ever have conferred this power upon any officer not expected to be appointed with the concurrence of the Senate? Has there ever been a Secretary who has passed the Senate that would have given the order for the removal? Has there ever been a time when any one could have been confirmed, if it were known that he would give such an order? Yet the people were told, and verily believed, when they adopted this constitution, the concurrence of the Senate in appointments was to be a safe *practical* barrier against the will of a single Executive; that *accidental* vacancies only could be filled in the recess, and that temporarily only, for purposes too imminent to bear delay.

As the order was *in form*, that of the Secretary, he must give his reasons upon compulsion; and that, too, where reasons were not “as plenty as blackberries.” The first *financial* officer removed the great *financial* agent of the Government, and appointed another in his stead, and yet his reasons are not *finan-*

*cial!* As a *fiscal measure*, it seems to be conceded to be utterly indefensible. It depresses the stock of a bank in which we own \$7,000,000, to elevate that of which we own nothing. It removes our money from a bank which paid us one-fifth of the interest received upon it, to those who pay us nothing—from one where it was unquestionably safe, to those of at least, doubtful security—from where it was ready at any instant for our use, to those who require undefined reasonable notice—from one bound by law, to those only under Executive contract of doubtful validity. It is, in effect, a run upon our own Treasury; and changes a currency more sound and uniform than ever before existed in a country of equal extent, to one unsound, fluctuating, and deranged, producing general distress and dismay.

But it is contended that an arbitrary and unlimited discretion was vested in the Secretary. Precedents have been cited. That of Mr. Crawford has already been commented upon by those who have preceded me. Some others, new and extraordinary, have been presented by the Senator from Georgia, (Mr. Forsyth.) The first is a resolution offered in the House of Representatives, in 1817, never acted upon, and carrying with it no other authority than the unsupported opinion of the *mover*, which was—the *honorable gentleman himself*.

What was the resolution? That the Secretary of the Treasury be directed to withdraw the deposits,—directed, not by the President, but by Congress. How this tends to show unlimited power in the Secretary, to the exclusion of Congress, is not easily perceived. The second was a resolution offered in the House, by Mr. Spencer, of New York, but never acted upon. By this, too, the Secretary was ordered to withdraw the deposits upon certain conditions or contingencies. And this, a mere proposition to give a peremptory order by a superior, is cited to maintain the claim of the subordinate Secretary to unlimited and exclusive power.

[Mr. Forsyth explained. He had not adduced these precedents to show that Congress had no power, but that the Secretary had. He thought that Congress also possessed the power of removal, and, so far, differed from the Secretary. He added, that he then held in his hand the opinion of the Chief Justice, to which he had referred, which he had stated to be a dissentient opinion, and in which he understood the Chief Justice to say that the charter had been violated. Mr. Sprague resumed.]

That is the gentleman's inference. It is not so expressed, and, as I think, is not justly inferred. And, if it were, a dissentient opinion would not be a very good index of the views of the tribunal.

I recur to the resolutions. If they were not cited to cover the doctrine of the Secretary, they are of no significance in this discussion. But, taking the gentleman's explanation, how does an order by Congress to an executive officer to perform a specified service prove, or tend to prove, that such officer would have authority without such order? Is not the more reasonable inference the exact contrary? Do we not, almost every day, command, by law or resolution, the performance of acts which would otherwise be wholly unauthorized and illegal?

The third was that which the Senator introduced, with such peculiar emphasis; it is an extract from Mr. McDuffie's Report, in 1830, in which he says that the Secretary of the Treasury, with the sanction of Congress, has the power of removing the deposits for various reasons. With the sanction of Congress! And yet it is now contended that no such sanction is necessary; that the Secretary's power is sole and exclusive, absolute and uncontrollable.

I pass briefly to the *reasons* which the Secretary has assigned, not intending to repeat remarks which may have already been presented by others. That which is put forward as the first, and seems to be most relied upon is, that the Bank charter will expire in March, 1836; it should have been added, having two years thereafter to wind up its concerns. This, the Secretary declares, would of itself be abundant cause even for an earlier removal. Let us consider of this for a moment. Congress creates a fiscal agent, providing for its continuance until 1836; and that of itself, it is said, constitutes a reason for dismissing it in 1833! I say, created a fiscal agent. That was the only end and object. There was no power to grant the charter for any other purpose. None was even pretended. It was only as a *means* necessary and convenient to the Government to carry into effect the express powers of raising and disbursing revenue, and regulating the currency. This agency was its essence, its soul, its animating principle, without which it could have neither life nor being. All its faculties were imparted as subsidiary only to this—as the mere machinery necessary to this sole purpose of its creation. Could Congress then—could the National Legislature—

have provided that the agency should cease in 1833, and yet the Bank continue, for all other purposes, for years afterwards? Could they thus continue or establish it, for an indefinite term of years, as a mere commercial bank? The boldest advocates of latitudinarian constructions never advanced such an extravagant claim of power. And yet the Secretary of the Treasury assumes, under a power delegated by Congress, to effect that which Congress itself had no power to accomplish or authorize to be done,—to divorce the bank from the Government; to dismiss it from its agency, and yet continue its being for all other purposes; to establish a mere commercial bank.

In support of this first proposition, the Secretary assigns two subordinate reasons by way of argument. First, that a sudden removal would produce great public mischief, and it ought not to be left, therefore, till near the termination of the charter. It is to be recollected that the length of time contemplated by Congress for that operation was two years, that being the period expressly prescribed for closing its business after the expiration of the charter. The Secretary instantly intercepts all future deposits, threatens the immediate withdrawal of the whole, and actually takes from the vaults all, excepting a small fraction, within the short period of four months; and yet tells us that two years, six times as long, would be too short, and assigns that as a reason for his speedy action!

The second subordinate proposition is, that, when the charter shall be near its close, the Bank must be curtailing its discounts, and it would be distressing to call at such a time for the public moneys; and yet, during the months of August, September, and October, the Bank was rapidly curtailing its loans, and this was known to the Secretary, at the moment he gave his sudden order. He tells us so himself, and that it stimulated him to instant action; that he could not even wait till the meeting of Congress!

The next general reason is, that the “public directors” have not been placed upon the committees, and called into the active management of business so much as they ought. Without conceding the fact, (which has been discussed by others,) what is the remedy? The substitution of banks in which we have no “public directors!”

Next comes the case of the French bill. The Secretary of the Treasury drew on the Government of France for about nine hun-



dred thousand dollars. The bank offered to collect it as agent. This was declined. The Secretary insisted upon selling the bill. The Bank consented, became the purchaser, and paid for it to the Government. Upon its transmission to France it was protested, taken up for the honor of the purchaser, and, upon its return, the Bank *asked* the Government to pay the amount of the bill, and the usual damages in cases of protest; the same which the Government has itself invariably claimed of individuals, and actually received of some who were stockholders in the Bank. The damages had become a part of the debt, as much so as the principal; they were the property of the stockholders; the directors had no right to relinquish or give them away; and yet, because they merely and simply asked for payment, it is an offence—a crime—to be visited with this enormous punishment. What if the Bank had offered to relinquish this part of the debt, should we not then have heard that it was attempting to purchase the favor of the Secretary; to bribe him by one hundred and fifty thousand dollars of the money of the stockholders? Would it not have been imputed as a crime of much deeper dye? But what is the remedy? Substitute other banks, who need all their resources so much for their own exigencies that they will never be able to accommodate the Government by purchasing so large a bill; or, if they should, may, in perfect consistency with their contracts, and would be bound in duty to make the same claim for damages.

The last general reason assigned is, that the Bank has interfered in politics—in *politics*! That is *now* the accusation; when its primary offence, its highest crime, in truth, is, that it *would not* interfere in politics; it could *not* be made a political instrument; it would *not* come into the SYSTEM OF REFORM. Thence its destruction was decreed. Presidential denunciation followed—was reiterated; and, because it has dared, in a free country, to use a free press in self-defence; because, seeing the dagger aimed at its life, it has dared to raise a hand to turn aside the blow, the President exclaims—“It is assailing the Government; it is dangerous to the *Government*; it will overthrow the GOVERNMENT. Louis of France said, “I am the State.” We have arrived at that period, when one man may say, “I am the Government.”

The fiscal agent appointed by Congress, has interfered in politics; and, what is the remedy? Send out the *Fourth Auditor* to



select others to be under the sole control of the officers of the Treasury ; whose very existence is political ; who live, and move, and have their being in politics ! Nay, when it is *avowed* by the Fourth Auditor himself, that political considerations enter into these new selections ! Does he not say to his correspondent, that, “on account of your devotion to the cause I had so much at heart, I was anxious that the —— bank should be employed by the Treasury Department ?” Has not the President of one of the affiliated banks been already in the arena ? And now this removal of the public moneys—a movement, political in its conception and consummation, not merely tintured, but saturated with politics—is to be justified on the ground that the Bank had become political !

The Secretary, near the close of his report, very justly remarks, that it is a fundamental principle, that *power ought not to accumulate in the hands of the same person*. Do we not see this fundamental principle now practically subverted ? Is not the distribution, the balance of the powers of this Government, destroyed ? Are they not all rushing to *one great vortex*, converging to *one focus*, all—all melting down in the burning centre of a SINGLE EXECUTIVE ?

I may be deemed an alarmist. *There is cause for alarm*. When ONE MAN, encroaching upon Congress, the Senate, and the Judiciary, arrests and rolls back the course of legislation—interprets laws, treaties, and constitutions—assumes the sole power of appointment—holding, at the same time, absolute control over the army, the navy, the post-office, an affiliated press, and the whole swarm of Executive officers—and now, superadded to all, this tremendous money power, the fiscal agency engrafted upon banking capital—can liberty be safe ? *Safe*—when a *boa constrictor* is closing around her, his crawling and crushing folds !

*There is cause for alarm*. If this appalling accumulation of power may be acquired in the time of profound peace, what may not be accomplished in the exigencies of war—war, which the Executive Chief can at any moment create ? He has but to order the army across the lines to take possession of a foreign territory ; or the commander of a single ship, to insult a foreign flag ; or resort to any of the well known expedients of past ages, to provoke hostilities, and it is done. Congress, indeed, may not declare it—but other nations will make war upon us, and no

treaty can be formed but by the President ; and if he shall grasp further power to meet the emergencies which he himself has created, will you impeach him ? Impeach your chief, *flagrante bello*, when a strong Executive may be essential to self-preservation ?

I confess I do feel alarmed. And, if my strength bore any proportion to the depth and sincerity of my convictions, I would raise my voice till it passed every hill, filled every valley, and, was echoed back from every cottage on our remotest borders. I would say to the people, the STRONG MAN of the land—awake from your false security—sleep no longer in the lap of your Delilah ; you will be shorn of your strength, and bound in fetters. The progress of Executive power and prerogative must be arrested—*it must be arrested*. And if it be not done now, in this generation, by the peaceable means of constitutional resistance, it will be hereafter, by the convulsive throes of posterity—CONVULSIONS WHICH WILL BAPTIZE OUR CHILDREN IN THEIR OWN BLOOD !

PUBLIC DISTRESS.



## PUBLIC DISTRESS.

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### MAINE MEMORIALS.

IN SENATE, FEBRUARY 21, 1834.

MR. SPRAGUE presented to the Senate, Memorials from the cities of Portland and Bangor, in Maine, complaining of great Public Distress consequent upon the Removal of the Deposits, and praying for relief. In presenting them, he made a Statement of the Contents of the Memorials, and the Character and Standing of the Signers. A debate thereupon arose, which occupied a considerable part of the morning, and, in the course of which, Mr. Sprague several times addressed the Senate in answer to different Gentlemen. The following Remarks, in answer to Mr. Shepley, were made immediately upon that Gentleman's resuming his seat.

MR. SPRAGUE observed, that the remarks of his colleague, (Mr. Shepley,) as he presumed, were intended to go to their constituents, who had come before Congress to inform them of the causes which had produced the evils they complained of. He differed with his colleague as to that cause, and had deemed it proper to make known to his constituents, his views and opinions. The closing appeal of his colleague was not a little extraordinary. He tells our common constituents that they ought to bear the distresses under which they are laboring, and meet all the dangers which impend, because of an anonymous newspaper communication! He chooses, without evidence, or the shadow of authority, to make the bank responsible for the outpourings of an



unknown newspaper scribbler, and then cries out against the bank, and declares that our oppressed and doomed constituents ought patiently to endure all, because of such declarations of the bank. That anonymous writer makes predictions as to the course of the directors, and my colleague asks from what authority this language emanated. He, in his turn, asked him the same question. Did he know from whence it came? And, if he did not, with what semblance of reason or justice could he make the bank responsible for it? Was it to be endured that, because an unknown irresponsible writer in a newspaper chooses to utter sentiments not approved by the gentleman, an answer was to be sent home to his constituents who had respectfully addressed that body, that they had mistaken the cause of their distress; and that they should denounce the bank for the notions of an anonymous writer; and that then these logical assumptions should be very logically followed by the deduction that they are to submit to every evil rather than to suffer the dictation of a moneyed institution? Sir, (said Mr. Sprague,) I know my constituents too well to believe that they will be willing to receive this as a reply to their memorial, or that they will take these assumptions for the causes of the distress that prevails amongst them. It is in vain to attempt to make the bank responsible for the distress prevailing throughout the country. Recollect that this suffering is of recent origin; that, although the bank has existed from 1816 until the present time, distress was never felt, the cry of distress was never heard, until the unhallowed arm of power, in violation of the spirit of the constitution and the laws, struck the blow that has been felt from one end of the Union to the other. And yet, although the blow had been struck, we were told that this institution, under which the country has arrived at an unexampled state of prosperity—that this institution, which was before known and felt only by the blessings it had bestowed, and against which not a murmur of complaint, not a whisper of dissatisfaction, had come to us from any portion of this vast and happy country, is alone responsible for all the misery, present and prospective.

Sir, I deeply sympathize with my suffering constituents. I would make any sacrifice to afford them effectual relief. I have jeopardized all that was politically dear to me to avert the present calamity. Exercising whatever of judgment or prescience I possessed, and firmly believing that the war which the President was

waging against the bank would, in its progress, carry disaster, misery, and ruin, to thousands of my constituents, I did, at every hazard, and from no earthly motive but a high sense of paramount duty, give my voice and my vote for a re-charter of the bank, hoping thereby to terminate the war, and secure the continued and permanent prosperity of the country. The Executive repelled this measure of prevention; suppressed the re-charter by his veto. He has continued his assaults, even to this last unprecedented stretch of power; and now, when its disastrous effects are felt, when memorial after memorial come before Congress, complaining of an unexampled state of calamity and dismay, pointing out the true cause, and asking for relief, they were to be told that it was true, distress existed, but that it was not to be ascribed to the action of the Executive, but to the Bank of the United States. And how did the gentleman attempt to make this out? He made certain statements. I hope they rest upon some better authority than an unknown, anonymous newspaper writer. But take them as he presents them. The bank owes about thirty millions, and has about ten millions of specie in its vaults, and it is insisted, (said Mr. Sprague,) that the bank might well increase its debt twenty millions, (although about to wind up,) because, in a former opinion of the president of the bank, that, with five millions of specie, they could safely owe a debt to a certain extent. What! because when in a time of profound peace with the Government and all local institutions; when, having the public deposits and patronage, and the strong arm of the Government pledged for its support, and ready in good faith to be stretched out for its relief, and in a time of general and unexampled prosperity, the bank could safely extend its debt, it can, now that it has felt the blow aimed at its life, intended to prostrate it at the feet of the Secretary of the Treasury, extend its debt to the amount of twenty millions more! Now that the strong arm of the Government has not only been withdrawn from its support, but raised against it, in deadly hostility, and the whole host of affiliated banks also in array to cripple and crush it; after having been told, by the Fourth Auditor, the authorized agent of the Executive, that, in forty days, it could be laid low; that it was a feeble and defenceless reptile under the foot of the Secretary, is it to expand, and expose itself, as in time of profound peace and universal confi-

dence? What! when the tempest howls, and the whirlwind is raging, spread all sail, as in the mildest summer breeze?

My colleague tells us that the bank can calculate the average amount of its deposits, and ought to keep up its discounts upon them. What! when the Government, the greatest of all depositors, has withdrawn its funds, when the President had declared the bank unsafe, when the Secretary had doubted its solvency, when friends of the administration, in both branches, have declared that it was insolvent, and could not pay its depositors—after all this, we are to be told—the suffering people are to be told, that the bank ought to discount as liberally, in this time of general danger and distrust, as it ever could under any circumstances, upon the faith of its private deposits!

Sir, if President Biddle had been so blind or infatuated as to listen to such advice, there is no doubt but the bank would have been insolvent long before this time. The predictions would have been verified. Do we not know, continued Mr. Sprague, that the bank must take every precaution—have every post manned—every sail secured—because of the storm raised against it, by the hostility of the Government? Are they not bound to make weekly returns of their condition; send to their enemies statements of their weakness or strength—and may they not apprehend, that, if a weak point is thus made known, the fact may find its way immediately to the great reservoir of their notes—Wall street—and a sudden attack invited? Has it not actually happened? Was there not a sudden and unexampled run for near three hundred thousand dollars, upon the remote and supposed feeble branch at Savannah—an instant demand made for specie, which when produced, the agents of the Wall street brokers—the holders of the bills—did not want?

If, indeed, President Biddle had listened to the advice so gratuitously given him, and had not been fully prepared, the prediction would have been verified, in part, and one of the branches, at least, would have been prostrated. What was the object of sending on to Savannah to make this draft? Was it not the hope that the specie was not there? But it was there; and, because the bank was ready to meet that demand, and endeavors to keep itself prepared elsewhere, all this outcry is made, that the distresses of the country are caused by the bank hoarding specie in its

vaults. But suppose they had failed to get the specie? Why, the cry would have been, that the bank had extended its circulation for the purposes of unholy gain, and was, therefore, unable to meet the demands upon it, and was broken and insolvent.

But now the note is changed. Instead of bankruptcy and insolvency, it is too sound, too stable, too ready to pay—it will not consent to be broken. What had the bank done? It had made some curtailment of its accommodations, but only to about the same as had been withdrawn in the public deposits, taken from it in specie, or what is equivalent to specie—it had only called in to fill the vacuum which the Government had created. Was not this indispensable? Why have not the State banks, to which this money was transferred, extended their accommodations to the public to the amount of these transfers? They have not done it. And yet the United States Bank, from which the money, to the amount of millions, has been taken, is denounced for not keeping up their loans, made upon them, when in its possession; but the pet banks, to which the deposits have been transferred, are in no degree blamed for not discounting upon them when in their possession. The other State banks have contracted largely, probably five times the amount that the United States Bank has, and yet we hear no denunciations thundered against them—they are not charged with being the cause of distress; and, if the State banks, upon which Government has made no demands, may thus strengthen themselves, may not the United States Bank, from which so much has been taken, call in enough to fill the void thus created? The Bank of the United States is the only institution that cannot call in its debts, when necessary for its own safety, without the most unlimited censure. It cannot fill up the vacuum occasioned by the withdrawal from its vaults of near eight millions of dollars, by a call on its debtors for a like amount, without being charged with having caused all the distress prevailing throughout the country.

It seemed that deep and all-pervading distress did exist. The cause is palpable. It cannot be doubted or concealed. It is the blow struck by the Executive. To assign any other is as idle and irrational as it would be, if a man were to fall before our eyes from a dagger plunged into his heart, to suppose that he had come to his death by some other secret and unknown means. The cause was not to be mistaken; it was palpable, notorious as the



open day. The memorialists who came before the Senate were men of intelligence and respectability. Many of them charge their distresses to the action of the Executive, under a Government which they have a right to look up to as paternal, protecting their rights and promoting their prosperity; but from which, on the contrary, they have been made to feel as severe a blow as despotism itself could inflict. Sir, if we could attribute the present unexampled condition of the country to some convulsion of nature, or some infliction of the elements, the sufferers would find a throb of sympathy here; nay, I should deeply regret if they did not find a ready response in every breast. And shall we listen with less sensibility, shall we be deaf and callous because it is traced to human agency—to the administration, to the President; bound as he is by the highest obligations, as the ruler of a free people, to avert from them calamity, to relieve their suffering, and advance their prosperity?



PUBLIC DISTRESS.



## PUBLIC DISTRESS.

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### MAINE MEMORIALS.

THE following is in continuation of the Debate on the twenty-first of February, 1834, upon the Presentation of certain Memorials from Maine. Mr. Forsyth having addressed the Senate, Mr. Sprague immediately replied as follows :

MR. SPRAGUE said, that, if the gentleman from Georgia, (Mr. Forsyth,) had enjoyed as good an opportunity as he, (Mr. Sprague,) had of inspecting the memorials, he would have found portions of them which clearly set forth the distress complained of. The Senator would find it asserted that "great and unexampled distress is felt by all classes." This, (said Mr. Sprague,) is some distress, and among some persons. "Great and unexampled distress by all classes," and yet the gentleman can find no distress mentioned in that memorial. It showed only that we see with different eyes, and hear with different ears—that sometimes distress produced by a cause which is dear and near to us, cannot be believed to exist ; and when, at length, it has forced its way by its loud, reiterated cries, then it was to be charged to some other source. At first it was denied. Why was it denied? He, (Mr. Sprague,) did not speak of what the honorable Senator had just said. But when it was first announced here that the community were suffering, why was it that denial followed denial—that, on every occasion, when the subject was mentioned, gentlemen rose in their seats, and

stated, "all is calm and prosperous, and there is no sign of suffering or alarm!" It was because they knew that, if there was distress in the community, it arose from the action of the Executive, and they were then unwilling to believe the fact, because they would not censure the origin. And now, when the fact is ascertained, they are still reluctant to see it, when it is stated in a paper presented to the Senate. When, however, distress is found to exist on testimony so strong that the human understanding cannot resist it, then Senators turn it aside on the Bank of the United States, or upon overtrading, or the ignorance of the commercial community, or the foreign market, or any other cause, other than that iron hand which has struck down the prosperity and the hopes of the country. The gentleman from Georgia had assumed the office of adviser. He, (Mr. Sprague,) was willing to receive advice from any quarter, and from none more cheerfully than the honorable Senator who had been impelled to offer it, undoubtedly from his greater experience, and his very advanced years compared with himself, (Mr. Sprague.) The advice, unfortunately, happened not to be applicable to the present case, and he therefore would not deprive the gentleman of so valuable a commodity. He had best retain it for a more suitable occasion.

The honorable Senator had gratuitously recommended that he should tell his, (Mr. Sprague's,) constituents that no one here denies that Congress have power over this subject. He should like to know the extent of that power which it is said Congress possesses, and nobody denies. He would appeal to all around him whether Congress had any practical power over this subject. What is the state of the question? Sixty days before the meeting of Congress, the President threw himself in advance, and removed the public moneys from the place in which they were deposited, and supposed to have been surrounded and secured by law. How, he, (Mr. Sprague,) would ask, are they to be restored? Did the gentleman mean to say, that nobody denies here that a vote of a naked majority of Congress would restore them, whether the President approved of the measure or not? Did the gentleman mean to say, that, if Congress did not approve of the reasons assigned by the Secretary,—if either House disapproved—that that would of itself operate a restoration, by annulling the act? Will the gentleman say that the votes of a majority of Congress can effect a restoration of the deposits, without obtaining a vote of two-thirds

of both branches to supersede the veto? And, even then, have we any assurance that he would carry it into effect, having pronounced the bank unconstitutional, and declared that he is to support the constitution as he understands it? It was the most solemn mockery of power that was ever offered to a grave and deliberative body like the Senate of the United States. Have we not seen the Executive, by acting in advance of the meeting of Congress, place himself in a position to take advantage of his veto power to prevent the restoration, when, if he had waited sixty days only, and submitted the question to the legislature, there would have been some power in Congress, nay, there would have been some power in this Senate, to have prevented the removal. But, after the President has taken that attitude, and when it is known, as well as any thing future can be known, that, if there were to be a majority of the two branches, he stands ready to exercise his tremendous veto to paralyze their efforts to relieve the distress of the country, are we to be told here in mockery that we have the power? We ought to have the power, for it belongs to Congress legitimately, and by the constitution. It belongs to Congress to declare where the public moneys should be deposited, and how kept. The treasure of the nation was to be in the keeping of the representatives of the people; instead of which, one man—the Executive, has taken it into his own keeping. Will the honorable Senator tell me, he is not determined to keep them by the use of his veto power, if even both branches of the national legislature should demand their restoration? And yet Congress has power! The President has frequently recommended measures of legislation, and he is not backward in exercising all the privileges and prerogatives belonging to his station, if the subject should happen to be agreeable to his wishes. What measure does he recommend, what plan propose, for our adoption? Has he ever told Congress that they ought to be consulted as to the future disposition of those deposits? On the contrary, is it not the purpose and design of the President and his administration—I will not speak of his administration—of the President; he is the administration—he is the government—having got possession of the money, to keep possession of it by the banks which he holds at his will, and can remove at his pleasure?

The people's money, it is said, is in the Treasury; and where is the Treasury? Just where the President chooses to make it.



He may put it into a bank ; he may put it into a cellar ; he may put it under the care of the Postmaster General, or in the pocket of the Fourth Auditor—and that is the Treasury. The Treasury of the United States is wherever the President directs it shall be kept, and is changed from place to place, or from person to person, at his will or pleasure. And yet we are told that it is secured by the bolts and bars of the law—it is surrounded by the law, and you cannot get at it unless you conform to its requisitions ; the warrant must be signed, countersigned, and registered ; all forms and ceremonies must be gone through ; but, if the President wishes to reach it, he has only to command the officer to deliver it to him or his agent, and if he hesitates—"walk" is the word, and a compliant instrument is instantly substituted in his place. Was it not worse than idle to talk about the public treasure being secured by the barriers of the law, when that law presented no obstacle to the uncontrolled will of one man ? Was it not worse than a mockery to tell us that we are to act upon this subject, when the whole efficient action has been assumed by the Executive, and it is known, to a moral certainty, that he intends that no other action shall be had ; that his experiment shall be tried, without interruption, interference or advice ? When we are told here by those whose position and associations make their declarations authority, that no change is intended, no legislation desired ; but that the Executive plan, the Presidential experiment, is, at all events, to be carried through ? He hoped the Senator from Georgia would excuse him for not conforming to his recommendation to abstain from discussion, as he had followed his example rather than his precept.

PUBLIC DISTRESS.



## BOSTON MEMORIAL.

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THE Removal of the Deposits from the Bank of the United States, by the President, having produced deep pecuniary Distress throughout the Country, and especially in the Atlantic cities, Memorials and Petitions to Congress poured in, vehemently complaining of the Act of the President, and urgently praying for Relief. One, from the City of Boston, was carried to the Seat of Government by a large Committee, and presented to the Senate, by Mr. Webster. The Committee, having also requested Mr. Sprague to address the Senate upon its presentation, he did so, in the following Remarks.





## PUBLIC DISTRESS.

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### REMARKS

MADE by Mr. Sprague, on the Presentation to the Senate, by Mr. Webster, of the Memorial from the City of Boston, complaining of the Act of the President in removing the Deposits, and praying Relief from the deep Distress which had been occasioned thereby.

MR. SPRAGUE rose and said, that he had been requested, and although he felt, as he was sure that every one must feel, that it would be an act of supererogation to add any thing to the forcible remarks which had been already made, yet he could not refuse to add his testimony to the high character of the individuals who had transmitted this memorial. He supposed that because he had long enjoyed the acquaintance of many of the signers, and of all of the committee who had borne the memorial hither, it was expected of him that he should offer that testimony.

The Senate had now before them the memorial of about seven thousand of the citizens of the city of Boston, and their testimony to the existing distress; and this testimony might be considered as strong and as emphatic as any which had ever yet reached the Senate, or been presented here by any of the representatives of the people in their places. This testimony came from New England, the land of the primitive pilgrims—from Massachusetts, the first State which moved in that glorious struggle to which he was happy that allusion had been made yesterday by the gentleman from Virginia, and which had led in our independence—from Boston, which, in that State, had been the earliest to resist oppres-

sion, and to start in the career of liberty. He was not going to attempt any eulogium on that section of the country. The names which he had pronounced were in themselves a higher eulogium than any language could convey, and would carry to every heart a feeling of impressiveness which no words could increase.

You, sir, continued Mr. Sprague, who recently have visited those places, in company with the Chief Magistrate—you need no language of mine to impress on you the true character of this people. You have yourself recently stood in the high places in Boston and its vicinity, on the heights of Dorchester on one side of the city, and on Bunker's hill on the other; at Charlestown and at Cambridge. You have there almost had in view the plains of Concord and of Lexington; and have stood where the blood of our fathers called to their descendants, "Sons, scorn to be slaves!"—where that flag was first unfurled which has since floated, in proud triumph, over every wave, and against every foe—in that Faneuil Hall, where the voices of the Adamses, the Hancocks, and the Otises, first breathed into this country the breath of life. You have partaken of the unbounded hospitality of this people, and I am sure you will respond to the sentiment, that this is the land where friends find a welcome, and foes a grave.

If he was not misinformed, (Mr. Sprague continued,) during that visit, while the Chief Magistrate was reposing in the city of Boston, this disastrous measure had been decided on, which had now brought before the Senate the protest and memorial of seven thousand of these citizens. If he had not been greatly misinformed, the letter of the twenty-fifth of June, addressed to the Secretary of the Treasury, was dated from Boston, during that visit, and at the very time when the person whose name was affixed to it, was confined to his chamber by sickness, in a dark room, and in a condition of entire incapability of physical or intellectual effort. Would to Heaven, that, amidst the scene of uninterrupted prosperity which then surrounded him on all sides, the respect which was everywhere paid to the authorities of the Union, some strong influence could have withheld his hand from that signature, while such tributes of respect and approbation were tendered to those who were the agents in continuing to us a Government which provided for and protected the general happiness. That people, whom the President then saw in a condition

of prosperity and gladness, had now come hither by thousands, with the language of gloom, and sorrow, and dismay. It was from the same source, it was under the same roof, as has been so well remarked by the gentleman from Massachusetts, that memorials, protests, and petitions, were transmitted to the British Parliament. Those memorials, protests, and petitions, denounced, at that time, an act of political power, seizing their money without the consent of either themselves, or their representatives. The descendants of those people come now, and protest against an act of political power; also, seizing their money without their consent, or the consent of their representatives. The memorials, protests, and petitions sent to the British Parliament, were contemned. He trusted that a different fate awaited those which were now sent to Congress. The memorialists had come hither, because they thought that they lived, or ought to live, under a government of laws. They have come here with faith in law, and in the national legislature, and ask for relief and for redress. It had been remarked, that they did not go to the Executive mansion, they did not pass by the Halls of Congress, to lay their complaints at the feet of the Executive. They believed that the Executive had no right to interfere; and the manner in which the other committees, who had come hither, were treated by the Chief Magistrate, had prevented them from exposing themselves to similar treatment. Their behavior to the Chief Magistrate in the city of Boston, shows that they know how to respect the official dignitaries of the country; their refusal now to go to him, shows that they know how to respect themselves.



## PRESIDENT'S PROTEST





## PRESIDENTIAL PROTEST.

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MR. CLAY'S Resolutions, condemning the conduct of the President, in removing the Deposits, passed the Senate on the 28th of March, 1834. Those Resolutions will be found prefixed to a preceding Speech, page 335. On Thursday, the seventeenth day of April, President Jackson sent in his famous Protest against those Resolutions. It was immediately read by the Secretary, and took the Senate, or, at least, all those who were opposed to the Administration, entirely by surprise. Nothing could have been more unexpected. The instant the reading was concluded, Mr. Sprague and Mr. Poindexter both rose to address the Senate. The latter, being in front of the President, was first seen, and obtained the floor. He spoke for about five minutes, vehemently and indignantly. As soon as he had concluded, Mr. Sprague arose, and made the Speech which is here given.

The Protest, when read to the Senate, was in manuscript. In it, the President called the Heads of the Departments, "his Secretary." This expression was several times repeated, and is pointedly animadverted upon in the following Speech. Afterwards, when the Protest came to be printed, it was found, that, in every instance but one, the expression, "his Secretary," had been changed to "the Secretary." Mr. Sprague, recollecting how the document had been read, called the attention of the Senate to this change. The Secretary of the Senate thereupon stated, that the day after the following Speech was made, the private Secretary of the President of the United States came into the Senate Chamber, and requested him to make those alterations, which he declined doing, because the document had been read, but that he placed the word "the," in pencil, over the word "his," on the manuscript. This statement, and animadversions upon it, will be found in Gales & Seaton's Congressional Debates, Vol. X. Part II. page 1421.

On the 21st of April, four days after the Protest, the President sent in an explanatory Message, intended to obviate the force of some of the Remarks in this Speech.



## PRESIDENT'S PROTEST.

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### SPEECH

ON its being presented to the Senate, April 17, 1834.

MR. SPRAGUE rose to make a very few observations upon the extraordinary paper just read, more in grief than in anger ; for, whatever feelings might be excited on ordinary occasions, by such assumptions and assaults, he thought that, on an occasion like the present, in relation to a document coming from such a source, and calculated to produce such an effect, if sustained, on the institutions of the country, all other feelings should be merged in those of solemn and deep regret. The claims of executive power, set forth in that document, if admitted and established, would leave no other Department of this Government than a single Executive. What does the President say ? He asserts that all executive power is vested in him ; that he is responsible for all the acts of every public officer ; that all right, authority, and power, given them by law is, and must be, vested and embodied in him, as head and fountain of all ; that he stands, therefore, as the sole executive officer ; all others being merged in him. In what language did he speak of the Secretary of the Treasury ? "His Secretary"—"one of his Secretaries." Thus the Secretary of the Treasury is designated as the Secretary of the President, and not the Secretary of the law. All the Secretaries are his Secretaries ; the Major-General of the Army is his Major-General ; the Captains in the Navy are his Captains ; and all the civil officers of the Government are his officers—his instruments,

as denominated in another part of this document. The forty thousand officers in the Blue Book are his officers—his instruments—his army—to do his bidding, as his creatures—knowing no law but his will. Did not this correspond with what it was known that he had said to the Philadelphia committee, as well as to others, when he spoke of this Government as “my Government?” Yes, sir, my Government! This Government is my Government, and all its officers are my officers! “I am the State!”

Having thus embodied all executive power in a single individual, what does he arrogate as belonging essentially to the Executive? He claims, in this document, what never before was heard in this country; he had gone beyond any who ever claimed extraordinary power for the Executive, when he said that, under the constitution, the President must have possession of all the public property, and all the public money!

Not content with advancing this unprecedented doctrine, this astounding claim, once, he repeats it in another form, and declares, in express terms, that “Congress cannot take out of the hands of the Executive Department, the custody of the public property or money, without an assumption of executive power, and a subversion of the first principles of the Constitution.” He had gone farther than even his warmest friends on this floor, or in the country. What did gentlemen say, when the debate on the subject of the public deposits was going on? They told us, (said Mr. Sprague,) that, although the deposits were removed, they were still subject to the control of Congress. It was insisted by some, that the removal itself had placed the moneys under the power of Congress. It was repeated and reiterated. We were taunted with the idea that Congress might, by legislation, determine their possession; and now the President comes here and asserts, that the Constitution gives him the sole possession of the public money, and that Congress cannot take it from him. What further? After claiming all executive power, both of the purse and the sword, what further? A new source of boundless power is discovered. My friend from Mississippi (Mr. Poindexter) had stated that the Constitution gave the President no right to send this protest to Congress, and he read the clause designating on what occasions the President may communicate with the National Legislature; but the gentleman did not observe the new source from whence this power was now claimed. Where did the President



pretend to find the authority to send this extraordinary protest? Not to give information to Congress on the state of the Union; not to recommend any legislative measures; no, he finds his authority in his oath to defend, preserve and protect the Constitution of the United States; he distinctly claims to derive substantive power from the terms of his official oath. A claim unprecedented, astounding, unlimited, and illimitable. He is to defend, preserve and protect the Constitution. And, as the Senate had passed a resolution, which, in the opinion of the Executive, violated the Constitution, he conceives it to be his duty to come here and correct it. What other violations of the Constitution will he undertake to correct? If the Supreme Court shall, in his opinion, transcend the constitution, will he not go there also and control them?

Sir, said Mr. Sprague, with the sword in one hand and the purse in the other—with the possession of all Executive power, and with the treasures of the nation, which, he says, Congress cannot divest him of, together with the right and duty, under his oath of office, to vindicate the Constitution against all others, even the great coördinate departments, where is the limit of the President's power, or his pretensions to carry it into practical effect? He is to see that the Constitution is preserved! He has told us, on a former occasion, by message, that he is to support the Constitution, as he understands it; not as the Judiciary expounds it; not as Congress declares it, but as he individually shall understand it. And now, because the Senate has passed resolutions expressive of its opinions, he comes forward and says it is in violation of the Constitution, and therefore he must correct it. He asserts that it is acting judicially, and that he is not to be touched but by impeachment. Impeachment! and against the President, wielding the enormous powers which he arrogates! Does he believe any man weak enough to suppose that impeachment is any security against him? So far from being any restraint, it would effectually shield him from responsibility and animadversion, if he could thereby gag the two Houses of Congress, so that they could not either or both, express opinions against his alarming encroachment, unless in the solemn form of an impeachment.

He assumes that the declaration of the Senate is a criminal procedure against him, and then enters into an argument to prove that it is unauthorized. He might as well assume that it was

piracy, and, after calling it by a false name, reason upon it from his own assumptions. Sir, the expressions of opinion on the part of the Senate, that the President had assumed powers not granted by the Constitution, is said to be a judicial sentence, without notice of trial, and without the previous formalities required by the Constitution; and yet this same President has heretofore denounced an act of the Senate as unconstitutional! Was that in him a judicial sentence? In an Executive message of March, 1833, but a little more than a year since, he declares that a resolution of the Senate is unconstitutional, and, therefore, he would make no more nominations to certain offices. [Mr. Sprague then read the message.] Here, sir, is a declaration that the Senate has acted unconstitutionally; and yet, although the President may declare that we have violated the Constitution, in restraining his power, the Senate may not presume to express its opinions with regard to the President's seizing upon the money of the People, without being charged with having pronounced a judicial sentence without trial. Take this very document, this protest itself; is it not filled, saturated with declarations that the Senate has violated the Constitution? Is it not almost wholly denunciatory? And, at the instant, in the very document in which he is uttering these accusations and denunciations against this body, he is making it a matter of grievous complaint that the Senate has simply expressed an opinion that he has transcended the limits of the Constitution. There was a resolution introduced in the Senate some years since, similar in its principle and effect to this which is so much complained of, and yet I am not aware that the President, or any of his friends, have ever denounced it as an assumption of unconstitutional power. It was the resolution of a Senator from North Carolina, not now a member of the Senate, (Mr. Branch,) which I will take the liberty to read to the Senate. It is as follows:

[Mr. Sprague here read the preamble and resolution, relative to the Panama mission.]

Here the President announced that he had accepted the invitation to take part in the Panama Congress, and that ministers would be commissioned; in consequence of which the declaration in the resolution just read was made. I am not aware that it ever was questioned that it was competent for the Senate so to express its opinion. This protest asserts that the resolution to which it relates is not legislative, nor designed as the foundation of legis-

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lation. How does the President know that? How does he know that it was not intended to lay the foundation of a bill for the restoration of the deposits? He undertakes to say that this body cannot pass a resolution for the purpose of preventing an evil precedent. Might not the Senate have said, on this occasion, that it expressed and recorded its disapprobation, lest the act of the Executive might be drawn into a dangerous precedent? Might it not be deemed important to prevent the effects of silent acquiescence in Executive usurpation? We have seen how precedents to enlarge Executive power are urged upon us. Silent acquiescence has been again and again construed into an approbation of Executive measures, and yet the Senate is not permitted to speak; and, if they do not speak, silence is assumed to be approbation and support. If precedents were needed to sustain our course, I might cite the proceedings in relation to the Seminole war; I might also cite the resolution in the other House in relation to the Panama mission; but it is unnecessary now to dwell further upon this topic. There is one part of this protest to which it is proper that I should advert. The President has seen fit to set forth, at full length, certain legislative proceedings in particular States, which might be supposed to have a bearing on individual members of this body. He has done me the honor to refer to my vote upon this occasion, and to my having advocated the resolution, and then detailed certain proceedings of the State—no, not of the State, but of the Legislature. Sir, all I need say to the tenant of the White House is, that, if the Secretary of the Treasury is claimed by him to be his Secretary, I am not his Senator. I recognize no right in the President of the United States to lecture me on my Senatorial duties, whatever power he may claim over his trembling officers, or however arbitrarily and oppressively he may control them. I am not his officer; and, so far as I am concerned at least, he shall learn that this Government is NOT his Government. I recognize no right in Andrew Jackson to come between me and the People I represent. It is not for him to say what opinions I shall hold, or what doctrines sustain. I yield not to his dictation; I submit not to his assaults; and I trust that my constituents, the spirited and intelligent People of Maine, will indignantly spurn his audacious interference between them and their servant. To that people alone I hold myself solemnly responsible. If, in their judgment, they shall think that I merit



rebuke for believing that he had no right to seize the public treasure; or that a National Bank is conducive to their prosperity, I shall submit in all humility to that chastisement from them, but from no other hand—no, not even from Andrew the First, acting Monarch of the White House. The period is rapidly approaching, when, at the ballot-box, in their primary assemblies, that people may express more directly than they have yet done, their opinion of my public services. Until this unprecedented Presidential attack in the face of the nation, it was to me a matter of indifference whether my political life should be continued or not. I have been ready, at all times, to sacrifice it to my convictions of duty. The approbation of my constituents, to whom I am bound by the strong ties of duty and gratitude, would indeed be at all times inexpressibly dear; while, on the other hand, their sanction of the assumptions of Executive powers, which would convert this free Republic into a Government of ONE MAN, would leave not a single wish to remain in its service. If they desire that their representative should be the mere supple tool of the President, to do his bidding, register his edicts, echo his royal mandates, and submit to his chastisement here, they will seek one better fitted for such a service.

That there are such to be found in some parts of the country, we have pregnant evidence around us. We see members of Congress openly avowing that they were elected as Jackson men, pledged to support all his measures, reserving to themselves no exercise of reason or judgment, or conscience, or knowledge. I was not elected as Jackson's man; I am not his man; I am no man's man. I was elected to perform my legislative functions, according to my own convictions of duty, after the most mature and deliberate reflection; and I have done so. I have sought no personal aggrandizement. I have not bowed the knee to Baal; and I will not now submit to this new prerogative of Presidential animadversion. I am aware that the President disclaims having referred to the acts of these State Legislatures, and the votes of Senators here, for any other purpose than as a mere matter of history—merely as a chronicler of the times. He has selected these particular portions of modern history, not with any view of assailing a co-ordinate branch of the Government; not with a purpose of attacking particular members, or endeavoring to hold them up in array against their State Legislatures—oh no! that

would be unworthy the Chief Magistrate, and disreputable to his station ; but these selections are made merely as matter of taste, or as specimens of his style as an historian. It is merely because they belong to history. What a pity it is, sir, that he should not have given us some other specimens of historical writing—some narrative of facts, not quite familiar to the public ; for these which he has selected are the same which have appeared, almost daily, for the last three months, in the vituperative columns of the Official Organ. Would it not have been as well, sir, if he had given us something of the secret history of those resolutions—the source from which they emanated, the initiated few to whom they were first communicated, the caucuses in which they were decreed, and all the *modus operandi* by which private judgment was subdued by Executive and party discipline ? This would, indeed, have enlightened the public, and aided their understanding of his favorite selections of modern history. He might have furnished us, too, with much curious reading, if he had chronicled the proceedings of his upper and nether cabinets. But I take leave of the historian.

The President, after making his onset upon this body, and arrogating to himself extraordinary and unlimited powers, attempts to enlist the sympathies of the Public, under the baseless pretext, that the resolution of the Senate assailed his private character. He dwells on his great public services, and pronounces his own eulogium. It is the old expedient. Thus has it been in all ages, when the successful warrior thirsts for supreme dominion. He appeals to the people, recurs to his past services, points to his wounds, to the dangers he has braved, the victories he has achieved, denounces those who would expose his ambition, and resist his encroachments, as enemies and calumniators—and appeals to the dear People, if they can refuse anything to such an injured benefactor. Will they not, from gratitude and sympathy, crush the Constitution, and permit him to rule as uncontrolled master ?

There is a closing sentiment in this extraordinary document, in which I most cordially concur. It is, that Government ought to be known only by the blessings it diffuses ; like the dews of heaven, it should be seen and felt only in the freshness and beauty which it spreads over the fair surface of creation. And how is “MY Government” now seen and felt ? Look abroad



upon this wide extended land ; see its green fields withered by the blast of oppression—the bread of industry snatched from the mouth of labor. Hear the piercing cries of widows and orphans ; the supplications, the execrations, which daily and hourly come up to us from all classes, and occupations, and pursuits, upon that heartless and iron-handed despotism, which has struck down their prosperity, blasted their hopes, crushed them to the earth, and there still holds them in torture and agony, in its unrelenting and unrelaxing grasp—and then hear the arbitrary author of all this wide-spread ruin and heart-rending misery, calmly tell us that Government should be, like the dews of heaven, seen and felt only in the beauty and freshness which it diffuses !

Such is his theory, and such his practice ! It is another illustration with what effrontery iron-hearted oppression can put forth pretensions to mildness and benignity.





## PART II.

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SPEECHES, ADDRESSES, AND ARGUMENTS,

*NOT CONGRESSIONAL,*

BETWEEN THE YEARS 1825 AND 1853.





EULOGY ON ADAMS AND JEFFERSON.



## EULOGY ON ADAMS AND JEFFERSON.

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JOHN ADAMS and THOMAS JEFFERSON died on the Fourth of July, 1826, the Fiftieth Anniversary of the Declaration of Independence. Of all the members of the Continental Congress, they were the most distinguished and influential in producing that Declaration, and no names in our history were more intimately associated with it, in the public mind. Beside this, they had rendered memorable services to the country in many important stations. They had been, respectively, at the head of the two great political parties into which the nation was divided, soon after the adoption of the Constitution, and had, successively, filled the office of President of the United States. The departure of either, at any time, would have deeply affected the public, but the simultaneous death of both, on such an Anniversary, produced, everywhere, the most profound emotion. Eulogies and Discourses, upon the occasion, were called forth in all parts of the country.

The following Address was delivered by Mr. Sprague, on the twenty-sixth of July, 1826, by request of the citizens of Hallowell, Augusta, and Gardner. The anecdote respecting Mr. Adams and Commodore Tucker, the author had from the lips of the Commodore, himself. Other gentlemen, now living, have heard the same from the gallant old sailor. It is believed that it was printed, for the first time, in this Address.



## EULOGY ON ADAMS AND JEFFERSON,

DELIVERED AT HALLOWELL, JULY 26, 1826.

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It is good for us to be here. We are assembled to pay our tribute of respect to the memory of distinguished benefactors, to indulge in recollections of exalted virtues and resplendent talents devoted to the service of our country and of mankind. Adams and Jefferson are no more! They, whose names are associated with all that belongs to us—are intertwined with whatever is dear in the recollections of youth, and all that is valuable in the possessions of manhood—which were pronounced with reverence by trembling age, and lisping infancy, and admired throughout the civilized world—they have passed away—the shroud, the coffin, and the hearse, have received them; the long train has followed them in sable, solemn silence, and the tomb has echoed to the hollow tread of the mourners!

To do justice to one such man, would far transcend my feeble powers. How doubly impossible where both are combined! If the task you have assigned me required this, I should, indeed, shrink from it in despair. But we are assembled to do them homage, not in the vain expectation of adding to their glory, but to obey the impulse of our own feelings, and to prove that we appreciate, and are worthy to retain, the blessings we have derived from them. The occasion does not call for the minutiae of their lives and characters, and I shall attempt only, in an humble manner, to dwell, for a few moments, on their prominent features, and present in connexion some plain reflections upon the nature, extent, and effects of their labors.



We inquire not who were the progenitors of such men. No ancestry could add to that lustre, which will gild their descendants for ages to come.

As their celebrity is derived from their intellect, it would be most interesting, if time permitted, to trace the early cultivation and the whole training of their minds. Both received their education at public colleges, and both studied the profession of the law.

Mr. Adams made such distinguished progress in this profession, that, at an early age, the office of Chief Justice of his native State was tendered to him ; but he declined its acceptance. His successful defence of the British officers, tried for murder at the time of the Boston massacre, when popular indignation against them had been excited almost to fury, shows at once his power and independence of mind, and his high sense of justice and professional duty.

Mr. Jefferson rendered a most important service to his State, by aiding in the revisal of all the Colonial and British statutes in force in Virginia, and reducing them, with a part of the common law, to one code. He divested them of their aristocratical features and feudal barbarisms, and, by abolishing entails, and the rights of primogeniture, decreed the equal distribution of estates among children—the true agrarian law of republics, beneath which the greatest masses of wealth soon melt away.

Their course of legal study and professional exertion, was admirably adapted to prepare them both for their destined career ; to strengthen, enlarge, and liberalize the mind ; to give clear views of natural rights, and the violation of them by human institutions. I know it is said, that this profession tends to narrow and contract the sphere of thought. It does so, where the attention is fixed, with microscopic vision, upon its rigid forms and the artificial processes of mere technical deduction ; where precedents, like the decrees of Fate, demand a blind submission, and inveterate absurdities are bowed down to, with superstitious awe, which holds the intellect in bondage, and shrinks from improvement as impiety. But those of whom we speak, regarded law in its true exalted character ; the rule of human action founded on right and reason, designed for the security and happiness of all rational beings—the fountain of all human societies and human enjoyment. Its origin and its objects, the foundation and the fabric, were by them examined with the severest

scrutiny, in a spirit of liberal philosophy ; calling into exercise the most enlarged comprehension and the most vigorous grasp of intellect.

In 1770, Mr. Adams began his political career as representative from the town of Boston. In 1774, being elected to the council, he had the honor of being negatived by Governor Gage, on account of his political conduct.

Mr. Jefferson was scarcely more than twenty-one years of age, when he was elected a member of the legislature of Virginia. Thus, like the Father of his country, he was called early into the public service. While they were yet scarcely hardened into manhood, to Washington, as a military commander, Virginia entrusted the lives of her citizens, and the safety of her frontier ; and Jefferson mingled his counsels among the reverend and the grave in her halls of legislation. Such was the policy of Virginia, which has nourished her great men, and clustered around her so many brilliant names, and gave her, for a time, such preponderating sway in the national councils. Whenever a new luminary was discovered emerging from her horizon, she scattered no mists of prejudice, nor clouds of distrust before him, but courted his earliest beams, and gloried in his meridian splendor.

Adams and Jefferson, in the Colonial Assemblies of Massachusetts and Virginia, and in the Continental Congress, were among the earliest and most strenuous opposers of British aggression. They were conspicuously active in the measures which led to, and maintained, our Independence. They knew well the magnitude of the undertaking, but they knew also the immense importance of our severance from the mother country. They early foresaw that it was to be a contest of blood ; but they saw, too, that the object was worth all the cost of sacrifices and dangers, through which it was to be attained. It is for the essential part they took in the great work of our Revolution, that we owe them our profoundest gratitude—a work, the magnitude of which cannot be exaggerated—its value can never be estimated.

There are those, indeed, who, dazzled by the glory of Britain, are apt to think that there is nothing so forbidding in a connexion with her, and that there could not be much danger under the dominion of so brave, so free, and refined a nation. We may concede to them all that is asked for her arts, her literature, and her science ; for the measured freedom which she enjoys, and the

watchfulness and vigor with which she guards and maintains her rights. But we are not to forget the principles of human nature, and that history and observation teach us that those who are most jealous of their own freedom, are often the most ready to bind the yoke and wield the lash of servitude upon others. The refined Athenian, and the lofty Roman, had their slaves, and the invincible Spartans their helots; and even in a portion of our own thrice-blessed country, we see the high-minded, the free, and the chivalric, holding their fellow-men in bondage. But why do we seek other illustrations, when the example of Britain herself, is before us? Look at her treatment of her colonies, hardly excepting even those now remaining on this side the Atlantic, from whose poverty she can filch no wealth, and who, being contiguous to us, and in full view of our unrestrained happiness, are held by so feeble a tie, that, if she attempt to straighten, she must sunder it.

Look at Ireland—whose green fields have been scorched by oppression, and where the fruits of Heaven are blasted by the breath of man! See her emaciated sons; with starvation on the one hand, and the gibbet on the other—they crawl into their low, mud-built huts, to carry to famishing children only a communion of wretchedness! Look at India—where Ambition has reddened his hands in the blood of millions; and Rapine has rioted on their spoils!—where Avarice has been sent to glean the fields, which War and Desolation had reaped!

I trust that I speak from no prejudice, much less from any narrow spirit of hostility towards England. But I would have you appreciate the freedom you enjoy, and the merits of those who gave it. I know that much, very much, of the wrong which Britain inflicts upon others, results inevitably from her own condition. Her sense of justice yields to the necessities of her own excessive population. But this renders not her connexion the less disastrous. The Lion is indeed of noble nature, but, when his own whelps cry out for hunger, let all beware of his embrace.

It is mere delusion to suppose that we should have escaped the deadly effects of England's unrestrained dominion, if our fathers had not resisted. Had they yielded to her claim of right "to bind us in all cases whatsoever," it is vain to say that our Independence would only have been for a short time delayed. She *would* have bound our infant-giant limbs in fetters, and stunted them forever of their fair proportions. Our people would not

have multiplied as now—our commerce would not have covered every sea, nor our extended fields gloried in their harvests; but the forest would still have frowned around us, and poverty, and weakness, and dependence have been our portion. This is the thralldom—such are the miseries from which Adams and Jefferson have redeemed us, and honored and blessed be their names forever.

The Continental Congress was the theatre of their severest trials and highest glory. Among the measures of that august assembly, the Declaration of our Independence stands preëminent. Every thing connected with it excites deep and acute interest. The motion “that these States are, and of right ought to be, free and independent,” was made by Richard Henry Lee, and, as it has been asserted, at the instance of Mr. Adams. The committee on this motion consisted of Jefferson, Adams, Franklin, Sherman, and Livingston, by whom Jefferson and Adams were appointed a sub-committee, and then the making of the original draught of the declaration was devolved on Mr. Jefferson alone. That which he presented was approved by Mr. Adams, then by the whole committee, and reported to the Congress without the change of a single syllable. Some portions of the original were stricken out by that body before its adoption; among which was a most eloquent and impressive invective against the king, for having introduced negro slavery into the colonies, and still continuing the slave trade; which Mr. Jefferson’s friends would not permit to remain, but they could not deprive him of the honor of having proposed it.

The Declaration, in its present form, was adopted by vote of the Congress, and subscribed by its members, on the Fourth of July, 1776, the most important day, politically speaking, that the world has ever seen. Our admiration of this instrument is raised, not merely by the unequalled elegance and elevation of its style, but by the matchless thoughts that strike so forcibly upon the heart—by the principles it develops, and that firmness of purpose, which gives form and vigor to those principles; and that spirit which breathes them into life, and energy, and action. But it is as a great solemn *political act* that it demands our highest veneration. What had the world ever seen that was equal, that approached to it? Go to antiquity—to Greece, to Rome—travel over France, Spain, Germany, and the whole of modern continen-



tal Europe. All was comparative gloom ; political science had not risen. Go to the isles of the sea—to Britain, then the freest of nations ; and Englishmen would proudly point you to their Magna Charta, as their most valuable birthright, and the greatest bulwark of liberty which any nation had raised. It was so. And yet how does it dwindle in the contrast with our Declaration of Independence, which was a greater era in the history of mankind, than Magna Charta was, in the history of England ! The latter was a concession, extorted by armed barons from their Sovereign. It was, what it is called, a *charter*, from the king, as the fountain of all right and power. He was their lord and master—the ultimate owner of all the soil in the kingdom ; and this was a *grant*, forced, it is true, but still a *grant*, from his grace and favor, allowing the exercise of some rights to his subjects, and consenting to some limits to his royal prerogative.

The former is not a grant of privileges to a portion of a single nation—it is a declaration, by a whole people, of what before existed, and will always exist,—the native equality of the human race, as the true foundation of all political, of all human, institutions. It was an assertion, that we held our rights, as we hold our existence, by no charter, except from the King of kings. It vindicated the dignity of our nature. It rested upon this “one inextinguishable truth, which never has been, and never can be, wholly eradicated from the human heart, placed as it is, in the very core and centre of it by its Maker, that man was not made the property of man—that human power is a trust for human benefit, and that, when it is abused, resistance becomes justice and duty.”

This great truth was proclaimed to the world, with a voice that reached over oceans and continents, and found an instant response in every human breast. I cannot exaggerate to myself the effects it will produce, not merely upon this country, but upon the future condition of the human race. Its power was soon felt in the tremendous revolutions of France, and the convulsive throes for liberty throughout Europe.

But, it may be asked, how could those scenes, of horror and of crime, have flowed from the pure and beneficent principles of that Declaration ? The answer is ready. The soil of France was not prepared for the seeds of liberty ; and falsehood, impiety, and unbridled passion sprang up. The immense populace were there sunk in the depths of brutal ignorance. It had been for ages the



policy of the civil rulers and the clergy, to keep the people in profound darkness, as the means of perpetuating their own power. The mind and the body were both held in thralldom. An arbitrary government had prostrated them to the earth, and a catholic priesthood had thrown over them the pall of bigotry, through which no ray from above could penetrate. Ground into the dust, they felt like men, though they could not see like men. They knew that they were wronged, but knew not the means of redress; and, rising in their wrath, were indiscriminate in their vengeance. The people, there, were the strong man, who had been shorn of his locks, and bound in fetters, and his eyes sealed up from the light of heaven, and his toil and agony were made the profit and the sport of lords and nobles! No wonder, that, in his blindness and his rage, he laid hold of the pillars of the fabric, which sustained them, and buried himself and his oppressors in undistinguished ruin.

But the convulsions and miseries of Europe, since our Revolution, have not been in vain. They afford lessons to rulers and subjects which cannot be forgotten. Inquiry has been excited, knowledge is extending, the rights and duties of man are becoming better understood, and must in their progress be universally asserted and exercised. By the effects of our Declaration of Independence, South America has been emancipated, Europe enlightened, and Greece, unhappy Greece, aroused from her lethargy of centuries.

Mr. Adams's participation in this great measure, is not less honorable than that of his illustrious colleague. His whole soul seemed wrapt up in the issue. His efforts were unremitted. "Instant in season and out of season"—in the Congress and out of it—in conversation and in debate, he exerted all his powers of persuasion, and poured forth his highest strains of eloquence; and by the aid of Him, who "touched Isaiah's hallowed lips with fire," he moved the heart, and convinced the mind, and his glorious purpose was accomplished. To have been, the one the author, and the other the most efficient advocate, of that Declaration, is fame enough for both. It has placed them on the highest pinnacle of human greatness, and their names will go down with unfading glory to future ages.

But it was not by this act alone that Jefferson and Adams were distinguished in the Continental Congress. In that assembly of

glowing patriots, they were always among the most ardent ; with the daring and fearless, they were among the boldest ; with the unyielding, among the firmest ; and with the sagacious, the wisest. And when we say that they were eminently conspicuous in the old Congress in Philadelphia, in order to understand the full merit of such distinction, we must recollect who were the men that composed that body. If we examine their individual characters, their State papers, and their public acts, we shall, with the celebrated Chatham, yield them collectively our unqualified admiration. It is difficult to speak of them, with simple justice, without appearing to use the language of extravagant eulogium. For all, who have not well considered, will think it incredible, that they should have been men of such overshadowing greatness. But it should be remembered that great occasions make great men. That it is amidst political revolutions that powerful minds are formed and called into action. The sparks of genius are struck out by the concussion, and the fury of the blast but increases the intensity of its fires. In the calm of peace, intellect may be torpid, or the inferior and unworthy, by the little arts of intrigue, may rise to place and power. But, when the storm rages, and all feel that they are embarked together upon the waves, then, when the timid quail, and the feeble tremble, and the short-sighted are confounded—none but the strong hand, and the firm heart, and the unblenched eye, can hold the helm, and direct the course. It is amidst the war of the elements that the master spirits rule.

Mr. Adams was removed from the Congress to other scenes of important duty and usefulness. In August, 1779, he was sent to Europe as a Commissioner of peace. The public ship, on board which he embarked, was commanded by the gallant Commodore Tucker, now living, and a citizen of this State, who took more guns from the enemy, during the revolutionary war, than any other naval commander, and who has been far less known and rewarded than his merits deserved. One occurrence on their passage is worthy of relation as illustrating the characters of both. Discovering an enemy's ship, neither could resist the temptation to engage, although against the dictates of prudent duty. Tucker, however, stipulated that Mr. Adams should remain in the lower part of the ship as a place of safety. But no sooner had the battle commenced than he was seen on deck, with a musket in his hands, fighting as a common marine. The Commodore perempto-

rily ordered him below, but, called instantly away, it was not until considerable time had elapsed that he discovered this public minister still at his post, intently engaged in firing upon the enemy. Advancing, he exclaimed, Why are you here, sir? I am commanded by the Continental Congress to carry you in safety to Europe, and I will do it : and, seizing him in his arms, forcibly carried him from the scene of danger.

Mr. Adams remained in Europe during the remainder of the war, and for some time after, and went from court to court unceasingly exerting himself for the benefit of his country. He succeeded in negotiating a loan at Amsterdam ; and a treaty of amity and commerce, and also a convention with the Netherlands, both of which were signed in October, 1782. He was engaged in negotiating the treaty with Great Britain which terminated the war, and his name is subscribed to the provisional articles of peace in November, 1782 ; the armistice declaring a cessation of hostilities of January, 1783 ; and the definitive treaty of peace of September of the same year. He was subsequently Ambassador to the Court of St. James, and one of the negotiators of the treaty of 1785 with Prussia.

Mr. Jefferson remained in the United States, continuing his efforts for the general good, in the several capacities of Delegate to Congress, a Member of the Legislature, and Governor of Virginia. In 1784, he was associated with Adams, Franklin, Jay, and Laurens, in a plenipotentiary commission to the several powers of Europe, and in July, 1785, signed the treaty of amity and commerce with Prussia.

In 1781, Mr. Jefferson composed his Notes on Virginia, and in the years 1786 and 1787, Mr. Adams wrote his Defence of the American Constitutions. Both are works of great and deserved celebrity.

Under our present federal constitution, Mr. Adams was twice elected to the Vice-Presidency, and succeeded General Washington in the office of President.

Mr. Jefferson successively filled the stations of Secretary of State, Vice-President, and President of the United States.

The terms for which they had severally been elected, having expired, both retired from the highest offices and greatest honors which this, or any country could afford, to the retreats of private life ; in which they were exemplars of purity, hospitality and

usefulness,—Mr. Jefferson, at Monticello, devoting his time to the University of Virginia; and Mr. Adams, at Quincy, holding up the lamp of his experience for the guidance of others.

Mr. Adams was of an ardent temperament. His intellect was marked with great fervor and great strength; sometimes rapid, almost to precipitancy, yet immovably fixed in its purposes. Of untiring industry, and unyielding perseverance, he was characterized by active moral courage. Scenes where others were appalled but nerved him to greater energy.

Mr. Jefferson was constitutionally calm, circumspect and philosophical. His views were clear and comprehensive. He investigated closely, and reflected much before he proceeded to action, and, having marked out his course with extensive knowledge and deep thought, advanced in it with undeviating step.

The minds of both seized their subjects with a giant's power; but one seemed to embrace the most, and the other to grasp the closest. They were both learned; but yielded to no dogmas, and were trammelled by no systems. Enriched by the spoils of ages, they did not bend beneath the weight of their own wealth; but it increased their inborn independence; they stood more firmly erect, and fearlessly surveyed the heavens and the earth. Wherever Truth would lead, they dared to follow: and they cared not if they shook the world with their opinions, if they but scattered the clouds, and let in light upon the mind.

I propose not to dwell upon that period of their lives when they were at the head of contending parties. I would not, on this day, strike a single chord that may not be attuned to harmony. In the awful silence of the tomb, passion is hushed, and its fires burn not amid the damps of death. Whatever we may think of the correctness of their respective opinions, or the policy of their measures, we may at least accord to each of them honesty and singleness of intention. In this, we shall but follow their own example, who in later life have borne willing testimony to the merits of each other—Adams proclaiming the services of Jefferson, and Jefferson asserting that Adams was emphatically *the great man* of the Congress which declared our Independence. While we lament their temporary alienation, we have the consolation to know that personal friendship, and harmony of political views, were fully restored long before the close of life. It was grateful, it was ennobling, to see those great and good men, whose hearts,



in early time, had been bound and knit together, but who, for a while, had been estranged from each other, again unite in the cordial embrace, and the strong sympathy, which death itself was not to sunder, but in which, they were to pass together to another world. The streams of their lives were united near their sources, and, joined in one current, had forced their way through mounds of earth, and swept over appalling barriers—but, at length, divided in their course, by a rough island of rock, they rushed by its opposing sides with turbulent and emulous rapidity—until, at last, their waters were commingled in peace, and flowed on, tranquil and majestic, into the ocean of eternity.

We contemplate their departure without any thing of the bitterness of despair, and with little even of the poignancy of grief, but with a soothing sadness and a melancholy pleasure. We mourn indeed ; but it is with the feelings in which we view the closing of the year, when nature herself is falling to decay, and seems to be putting on the shroud of death. We must be solemn ; for it is a memento, which comes home to our own hearts, and tells us, that, however bright the tide or proud the waves on which we ride, they bear us swiftly to silence and night.

They had lived to reap the richest of earthly rewards in the abundant success of all their labors. They had seen the institutions, which they had established, survive the violence of internal excitement, and the shock of foreign war ; and our country rich, powerful and populous, beyond what the most glowing visions of their youth had dared to depict. They had seen the expansion of the soul, when the pressure of bigotry and tyranny was removed ; and the free spirit go forth in its majesty—penetrating the dark recesses of Spanish oppression in the South ; and invading the strongholds of Turkish despotism in the East ; and iron thrones melting before that fire whose early flame their breath had fanned. They had lived to become the Patriarchs of America, and saw their children in the land of promise ; and one of them beheld the destinies of this far-extended and enlightened people, safely reposing in the hands of his own Patriot Son, preëminent for wisdom and virtue. The men of other days—their companions and their friends, had passed away ; and new generations had risen up to call them blessed. Their labors were finished—the number of their days was full—they had lived enough for themselves, for their country, and mankind. It only remained to them, that their



last prayer should be answered in the wonderful, we may almost be permitted to say, the miraculous, coincidences of their departure, which have given new interest to a day, which was before above all days of political celebration. They passed indeed through the valley of the shadow of death, but it was lighted up by the brightness of their own day of Jubilee—their spirits arose upon the songs of joy, and the prayers of gratitude of millions, whom they had made free—and had the prophet lent his “chariot of fire,” and his “horses of fire,” their ascent could hardly have been more glorious!

It remains to us to cherish their memory, and emulate their virtues, by perpetuating and extending the blessings which they have bequeathed. So long as we preserve our country, their fame cannot die, for it is reflected from the surface of every thing that is beautiful and valuable in our land. We cannot recur too often, nor dwell too long, upon the lives and characters of such men; for our own will take something of their form and impression from those on which they rest. If we inhale the moral atmosphere in which they moved, we must feel its purifying and invigorating influence. If we raise our thoughts to their elevation, our minds will be expanded and ennobled, in beholding the immeasurable distance beneath, and around us. “Can we breathe the pure mountain air, and not be refreshed? Can we walk abroad amidst the beautiful and the grand of the works of creation, and feel no kindling of devotion?”

Our country has been sometimes reproached for not erecting monuments and statues to her departed worthies. But what avails the monument of brass and stone? Sink its foundation deep; raise it as high as human ken; when the rolling years press on—it falls—they sweep over it, and leave not a trace of its gloomy grandeur. Erect the statue of marble; it is cold and lifeless. Time clasps it, and it becomes dust in his hands. But the patriot-statesmen and philanthropists, like those whom we this day commemorate, who have been the instruments of Providence in adding to the numbers and happiness of the human race; who have peopled and gladdened new regions—their memorials are everywhere! Their *statues* are man; living, feeling, intelligent, adoring man; bearing the image of his Maker; having the impress of divinity. These shall endure, by constant succession, through countless ages, and, vigorous in the embrace of Time,

become more and more abundant. Their *monuments* are the everlasting hills which they have clothed with verdure. Their praises are sounds of health and joy, in valleys which they have made fruitful. To them incense daily rises, in the perfumes of fragrant fields, which they have spread with cultivation. Fair cities proclaim their glory; gorgeous mansions speak their munificence. Their names are inscribed on the goodly habitations of men; and on those hallowed temples of God, whose spires ever point to the heaven which, we trust, has received them.



WASHINGTON'S CENTENNIAL BIRTH-  
DAY.





## CENTENNIAL BIRTHDAY OF WASHINGTON.

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THE Twenty-Second of February, A. D., 1832, was the Centennial Birthday of George Washington. It was celebrated at the City of Washington, by a Public Dinner, attended by a large number of Members of Congress, of both Houses, and other gentlemen from various parts of the United States. Mr. Webster presided. After the cloth had been removed, and some other gentlemen had addressed the Company, Mr. Sprague, being called upon by the President, spoke as follows.



## REMARKS

AT THE

CENTENNIAL CELEBRATION OF WASHINGTON'S BIRTHDAY,  
FEBRUARY 22, 1832.

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MR. SPRAGUE said : It might be supposed that a subject which has attracted the attention and elicited remarks from such gentlemen as those who have already addressed us must be entirely exhausted ; and so, indeed, it would, were it one of ordinary import. But the memory of Washington is a mine of moral and intellectual wealth of such richness and extent as can never be exhausted, however numerous and efficient the laborers.

In contemplating his character, as a subject of eulogium, the mind is overwhelmed with a conscious inability to fathom and embrace it. Indeed, it would require powers approximating to those of the great original himself fully to comprehend and appreciate it.

In attempting to select some peculiar and distinguishing endowment for admiration and remark, we find that all the qualities of greatness and goodness are so fully and equally blended as to produce an almost invincible repugnance to the omission of any.

In other preëminent men, a single, rare, and wonderful gift of nature, some peculiar development of genius, some one great, characterizing power has stood out prominent and alone ; fixing the attention, and challenging the wonder, of the beholder.

But, in him, it is the combined whole that constitutes the unparalleled perfection of character,—concentrating “the purest and best of all other men’s powers,”—the genius, order, energy, and daring of the hero, controlled and directed by the judgment of the philosopher, and the wisdom of the sage,—chastened and purified by the disinterestedness of the patriot, and the piety of the Christian.

This symmetry as a whole, this perfection of character in all its parts, has produced, upon the minds of the unreflecting, a less impression of greatness and strength than would the defects of irregularity and wildness, as the more perfect the proportions of a mighty edifice, the less the impression of its vastness upon the casual and transient beholder.

But, if I were called upon to designate some one scene as more characteristic and glorious than any other, it would not be Washington, as commander-in-chief of our armies; even when, on the banks of the Delaware, with three thousand ill fed, ill clad, continental soldiers, he held in check thirty thousand well appointed British veterans. It would not be Washington as the first chief magistrate of this new-created republic, preëminent in the midst of those great names which clustered around him; but it would be that spectacle of unequalled moral sublimity, when, at the close of a revolution of violence, protracted and bloody, he, the successful general, the triumphant warrior of that revolution, with an army, needy, destitute, enthusiastically devoted to him, with a country exhausted and prostrate before him, voluntarily disbanded that army, and laid down his power. It was then, when divesting himself of what, in the vulgar vocabulary of the world, is called greatness, he was, in the eye of the patriot, the philosopher, the philanthropist, most truly great. Others have ascended the heights of human power, and, their feeble brain becoming giddy by the unnatural elevation, has precipitated them headlong into the abyss beneath. But the original exaltation of his mind ranged in a far higher sphere, and he could look down with calmness, self-collected, self-controlled, and descend with ease, dignity, and security.

We have heard of other Washingtons; for there have been sycophants who could impiously attempt to write his sacred name upon the front of their wretched and transient idols.

It was said by Bonaparte, that he was once expected to become

the Washington of France, but that it was not in his power. No, even Napoleon, at whose name kings and princes trembled, in whose path thrones and empires were trodden to the dust, even he could not be a Washington. And there never has been another mortal man, who, without the aid of divine inspiration, could be a Washington. Bolivar, too, in his day, was called the Washington of Colombia! He is gone. Peace to his ashes! But it was well said, at the time, that we would not give our dead Washington for all the living Bolivars that the world could boast. And I will now say, that I would not give one of those bones, that now repose in the hallowed shades of Mount Vernon, for the whole muster roll of rank and file heroes that crowd the crimsoned records of history.

Who shall estimate the influence of his life upon the destinies of the human race? Cast your recollection backward one century, to the day we now commemorate. Contemplate the political thralldom of the world. Mark the march of freedom and of intellect to the present time. Carry your imagination forward one century hence, and dwell for a moment upon the beatific visions of the future, and then say what the world owes to the birthday of Washington.

I am admonished, by the lateness of the hour, not to trust myself further upon this copious, exhaustless theme; and I will detain you only by offering this sentiment:

“The Patriot Hero of our Revolution, the Christian Statesman of our Republic, great in goodness, and good in greatness.”





WHIG CELEBRATION AT BOSTON.



## WHIG CELEBRATION AT BOSTON.

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THE Fourth of July, 1834, was celebrated by a great number of the Whigs of Boston by a public dinner, in a large Pavilion, erected for the purpose, on the Common. In the afternoon of that day, Mr. Sprague arrived in Boston from Washington, a most memorable and exciting session of Congress having just closed. He was met by a Committee, who at once conducted him to the Pavilion. As soon as he had taken his seat, he was called up by a Toast from the President, and addressed the company as follows.





## REMARKS

AT THE

BOSTON WHIG CELEBRATION, JULY 4, 1834.

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MR. SPRAGUE said, having reached the city within the last hour—and, but a moment since, entered the Pavilion, they would readily believe that, if he were at liberty to consult his own wishes, he should receive the kind expressions of their regard in silent gratitude. But, stranger as he was, such a course would be too liable to misconstruction. He had said that he was a stranger, yet not wholly so, for he felt that he was standing upon his native soil, and breathing his native air. From choice the citizen of another State, the people of which he was bound by the strong ties of affection and gratitude, by powerful local attachments and enduring personal friendships—yet he would not willingly be deemed to be wholly an alien from the Commonwealth of Massachusetts; he would not willingly relinquish his share in the noble inheritance of her sons in the beaming pages of her history, in the thrilling traditions of our fathers, in the glowing recollections of youth, in those early associations when life had all its freshness, when the affections were purest, and every impression most deep and enduring; above all, I would not surrender my share in that Puritan Pilgrim blood which swells the veins and warms the hearts of the sons of New England, that blood which, wherever it flows, carries (with it) its original unchanging characteristic resis-

tance to arbitrary power, sustained by a courage that no dangers can appal, and a perseverance that no sufferings can subdue. Go back more than two centuries, when the sceptre of England was stretched forth to crush obnoxious nonconformity, and the humble unsupported Puritans alone stood forth in fearless resistance to political and ecclesiastical tyranny. Power could drive him from his country, but not from the fixedness of his purpose; he could leave his native land, he could not abandon his principles—he could bid adieu to luxury, refinement, civilization itself—and, in that single ship which bore him across the Atlantic, how much of the hopes and the happiness of the human race were embarked! He approached these shores frowning in primeval forests, tenanted only by savage beasts, or more savage man, homeless, houseless, canopied only by a December sky—and here laid the deep and broad foundations of a Christian Commonwealth. They were not mere religious enthusiasts—they were devotees also to republicanism, they bowed in passive obedience to no human monarch, but only to the King of kings. From the sacred volume itself they learned the native equality of the human race. Created by the same hand, formed of the same dust, and destined to the same grave. A community thus planted by Britons oppression grew up by her neglect until her assertion of absolute unlimited dominion on this side the ocean, produced that anniversary which you this day celebrate. The Whigs of 1776 were worthy descendants of the Puritans of 1620. Massachusetts, the first to dare, was ever foremost to maintain the fight. Now in these piping times of peace, her political weight may be depreciated, overshadowed by the Empire State of New York—the Keystone Pennsylvania, and the Old Dominion of Virginia—but then, in the hour of trial and of battle, her preëminence in services and sacrifices was felt and acknowledged—she then poured out her blood like water, and her treasure with the profusion of sunbeams—and let it still be remembered that, during the whole war of the Revolution, she furnished double the number of soldiers, and twice the amount of money of any other State—and, let it be remembered too, that while every other section of our country was more or less subjected to the enemy, while his banner floated in triumph on the banks of the Hudson, and the Delaware, and beyond the Potomac, while the Capitols of several of the States were at times in his possession, and others so entirely overrun, that there was scarcely a county

unpolluted by hostile feet, New England, at all times, presented on her borders an impregnable barrier in the indomitable spirit of her children. Although upon her, the most rebellious and denounced, was made the first onset while the power of the foe was unbroken, and his confidence unchecked, while as yet no foreign nation had lent either aid or countenance to strengthen our hands or our hearts, yet every attempted invasion was instantly and gloriously repelled—and, not content with self-defence, she sent her succors everywhere.

Wherever the war raged, there were her sons to be found, and there was scarce a well-fought field in the South, the West, or the Centre, which was not wet with their blood, and whitened with their bones. With these recollections, I cannot be surprised at the enthusiasm, the excitement, which I see around me. You would be unworthy of your lineage and your birth-place, if you were unmoved at the present crisis—you would be false to your country, false to posterity, false to yourselves; you would be deaf to the voice of your father's blood, deaf to the demands of your children, of whose inheritance you are trustees, deaf to your own conscience, if you were not aroused, deeply, intensely aroused, at the present march of arbitrary power. Where, in the whole history of free government, is to be found so rapid, and so disastrous a practical change, such enormous encroachments of actual tyranny under the forms and professions of republicanism as we have all seen, and I fear some of you felt, within the last five years? A single executive has in all ages been found most dangerous to human liberty; it was admitted into our Constitution with apprehension and reluctance, but the People, who adopted it, trusted that the President was so surrounded, limited, and restrained by the barriers of the great co-ordinate branches, that there would never be an accumulation of power in the hands of *one man*. Heretofore, our Chief Magistrates have scrupulously respected the specification of their power—they have not only anxiously kept themselves within their legitimate sphere, but exercised their authority with moderation, leaving the responsibility of everything which could with propriety be devolved upon the Legislature and the Judiciary. But, within five years past, we have been afflicted with a President disposed to call into rigorous exercise, and stretch to the utmost limit, every power within the letter, or the spirit of the Constitution, who has been even eager to say, "*I take the res-*

ponsibility," nay, who has been ready to transcend the limits of the fundamental charter itself, making his own will the only measure of his power—and, whenever statutes, or treaties, or the Constitution stood in his way, they were to be struck down and trampled upon with the exulting exclamation, "*I take the responsibility.*" The Whigs of '75 lived under a Government whose theory was, that all the privileges of the people were derived by concessions from the Crown—and yet our fathers rose in resistance to their King, because of his violations of their constitutional rights. The theory of our Republic is, that all powers of Government are derived by concessions from the People, and shall not they set bounds to a President? Our fathers resisted the King, the Whigs of '76 waged the war of the revolution, because he asserted the right to take their money without allowing them a representation in Parliament. Your Republican President asserts the right, ay, and exerts it too, of taking possession of your money in spite of your representation (in Congress.) They set forth, in the Declaration of Independence, that the King sent hither swarms of officers to eat out their substance; the President does not indeed send them from abroad, but enters your own dwelling, seducing your brothers and sons to be *his* officers, his instruments, bribing them by spoils from your Treasury into allegiance to him, and treachery to you.

The whigs of '76 were proscribed by the king, and the Hancock and Adamses of that day were individually marked out by royal denunciation. You now are under the executive ban, and you have done the humble individual who addresses you too much honor in recognizing him as one of the proscribed Senators, the individual objects of presidential denunciation. I have, indeed, been the object of Proscription, because I would not surrender my solemn convictions of duty and honor in abject submission to the arbitrary will of one man. Yes, I have stood up against presidential encroachments, and when the path to executive favor, and its proffered and glittering rewards were too plain to be mistaken, I have provoked its wrath by resisting its assumptions, I have done so without that external aid to which a public man ever looks with earnest solicitude. I felt that the trust reposed in my hands was not for the present day only, but for future generations, and my support was my own conscious rectitude. I am profoundly sensible of my obligations to the people of Maine. I



owe a debt of gratitude not to be discharged by consulting the temporary wishes of their Legislature, or the prejudices of the people themselves ; but by the exercise of my best judgment for their permanent welfare. The intelligent and the honest will vindicate both my motives and my conduct. In being proscribed, I am not singular. This administration commenced with an unrelenting system of proscription which swept in terror over the land, prostrating the best officers, the most upright men, the most devoted patriots, and this has been called Reform, a word which has changed its meaning since Jackson inscribed it upon his banner. It once meant the correction of abuses, now the introduction of them. It was once the removal of bad officers, now the expulsion of the good. It would be vain to attempt, on this festive occasion, even an allusion to all the prominent executive abuses. I would willingly say something of that unprecedented document which claims the officers of the law to be but the agents and instruments of a man arrogating to the same hand the indefeasible possession of all public money and all public property beyond the control and in defiance of the will of Congress. But I forbear. I may not enlarge upon these exciting and exhaustless topics. I would not alarm you. I will not enter upon a discussion which would threaten you with a congressional speech, which too often seems interminable, in which the condition of the hearer may be well illustrated by that of the sailor who undertook to overhaul a long rope, and, after hauling until his patience was wholly exhausted, finding no *end*, exclaimed in despair, "Some rascal has cut off the *end* of this rope." That my speech may not be subjected to such a suspicion, I will close at once by offering you a sentiment.





SPEECH ON ABOLITION.



## ABOLITION PARTY IN 1835.

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IN August, 1835, the ultra Abolition party in Massachusetts was in its infancy. But its dangerous and revolutionary character had already attracted public attention. Many of the friends of the Constitution and of social order in Boston, wished to give public expression to their disapprobation of the doctrines and doings of this new and violent party, and to do something to make its true character universally known. To this end they called a public meeting at Faneuil Hall. It was very numerously attended, without distinction of political party. A Committee of those who had called the meeting waited on Mr. Sprague, and requested him to make an Address upon the occasion. The following Speech was made in compliance with this request. Speeches were also made by the Hon. Harrison Gray Otis and the Hon. Richard Fletcher.





## SPEECH

DELIVERED AT A PUBLIC MEETING, IN FANEUIL HALL, IN  
AUGUST, 1835, IN RELATION TO THE THEN ABOLITION  
PARTY IN MASSACHUSETTS.

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MR. SPRAGUE regarded slavery as a great moral and political evil. He had been early imbued with this sentiment, and all that he had seen, and all that he had heard, had strengthened and deepened the conviction. He deeply deplored its existence, and, from the very core and centre of his heart, he prayed that our brethren of the South might see their own way clear, by their own free will, to effect its entire abolition. But it rested with them, and with them only. He could see no good, he saw only unmixed mischief, consequent upon agitating the subject here. What if the whole North could be excited and aroused with the same feelings and opinions, and to the same efforts and action as the leading abolitionists, producing, throughout the whole South, united to a man upon this subject, a corresponding and hostile excitement and exasperation? What would be the benefit? The enormous evils are palpable, but how would it benefit even the unfortunate slave? By operating upon the fears of the master? And when did fear ever induce a man to relax his power over the object that excited it? No, he will hold him down with a stronger grasp; he will draw the cords tighter; he will make the chains heavier; and sink his victim to a still deeper dungeon. Fear steels the heart against all touches of humanity. Would he be benefited by arousing him to physical resistance, to insurrection? For, whatever be

their motives, and I by no means intend to arraign them, the language and measures of the abolitionists clearly tend to insurrection and violence. Believe not, Sir, that their proceedings are kept, or can be kept, from the knowledge of the slaves : they have ears, and will hear ; they have eyes, and will see. Information upon such subjects, received through free blacks and other sources, is sought with avidity and circulated with activity, inflaming their minds and imaginations with the most false and fatal hopes. They hear that their masters have no legal or moral authority over them, that every moment's exercise of such dominion is sin, and that all laws that sanction it, are morally void ; that they are entitled to immediate emancipation, and that their masters are to be regarded as kidnappers and robbers for refusing it. They think that this is the general sentiment and feeling of the North, and that we shall cheer them on and aid them in putting an end at once to this void and sinful dominion. It is deluding these unfortunate beings to their own destruction. We should not aid them. The Constitution provides for the suppressing of insurrections. We should rally under the Constitution ; we should respond to its call ; nay, we should not wait for such a requisition, but on the instant should rush forward with fraternal emotions to defend our brethren from desolation and massacre. But, even if we stood aloof, can any rational man believe that an insurrection of the slaves could result in ultimate success ? In some of the West India Islands, while the black population was eight times that of the whites, still the latter kept their supremacy by their intelligence, science, and unity of action. But, in the aggregate South, the number of the whites exceeds that of the slaves, and the result of a servile war there must be, after the destruction of thousands and thousands of blacks, the holding the survivors in a sterner and more enduring bondage.

But there is another and far more important view of this matter—the effect upon the whites, upon the Constitution, and the Union.

The combinations and proceedings of the immediate abolitionists have produced and are producing throughout the South feelings of bitterness and hatred toward the North. I am aware that some of these gentlemen insist that all their efforts are designed merely to produce a persuasive effect on the masters. Sir, if such be really their object—if they intend only persuasion,

the course they adopt, the pouring forth the most insulting and opprobrious language, even to the pronouncing of all slaveholders indiscriminately to be robbers and murderers, and thus arousing the most indignant and embittered feelings, exhibits the most singular ideas of the adaptation of means to ends that ever were presented in the varieties of the human intellect. I have heard of persons who had "a thousand winning ways to make folks hate them," and surely the abolitionists have employed them all toward the South, and with wonderful success.

Sir, said Mr. Sprague, the time has come when the great body of the people, hitherto silent upon this delicate and momentous subject, should come forward and express their sentiments! Our brethren of the South are *alarmed*, deeply, profoundly. Nor ought we to be surprised that they are so. We know, indeed, that the agitators here are few, that even the whole number of those who have permitted their names to be enrolled in these societies is small, and I verily believe that many of them disapprove the violence of their leaders, and that more will do so when they contemplate the consequences of their measures. But, seen from a distance, they appear to occupy the whole field, and their incessant activity produces an erroneous impression of their strength and numbers.

And, sir, there are agitators on the other side of the Potomac, as well as on this; men who, from personal or political views, are willing to fan the flame of discord; there are those who wish a dissolution of the Union, and who, with that view, designedly lay hold of this topic, exaggerating the danger, and deepening the alarm. These men, we can never satisfy, because they are predetermined not to be satisfied with any measures which we can adopt. But the great body of the people of the South are strongly attached to this Union, and can be alienated from it only by a conviction that we of the North mean deliberately to disregard and violate the Constitution in a matter affecting their vital interests.

It is most solemnly incumbent upon us, then, to make our opinions and determinations known. Before the adoption of the Constitution, the several States possessed no right whatever to interfere with the domestic institutions of each other, no more than we now have to go into Canada or Nova Scotia to break up the relation of officer and soldier in their regiments, stimulating the

latter to mutiny. The Constitution gives no such right, but, on the contrary, interposes the obligations of compact against all such interference. It recognizes and provides for the continuance of the relation of master and slave; it further provides for the suppression of insurrections; and it surely requires no argument to show that we have no right to foment what we are bound to suppress. By the true spirit of that compact we are bound to leave to each State its own internal arrangements—to leave it in the quiet enjoyment of all the rights of independent sovereignty which it has not thereby conceded to the General Government.

Let us convince the South, that, by this compact, we mean most scrupulously to abide; that we go for the whole Constitution; that in our view all its parts are equally sacred; that ours is no sectional, or partial, or transient attachment; that we as resolutely maintain whatever looks to their protection and their benefit, as that which secures our own; that we would no more add to, than we would subtract from, the legitimate powers of the Constitution; and that we should hold it as treason to the Union to take one jot or tittle from the reserved and peculiar rights of the States.

Every one who knows any thing of the history of the Constitution, knows that it could never have been formed,—that the Southern States would never have acceded to it for an instant, if it had not left to them the exclusive and unmolested treatment of this terrible disease, this vital subject,—their own domestic slavery; and it cannot be preserved a day after they shall be brought to believe that there is, in this respect, a settled purpose here to disregard or go beyond the compact.

The South will not tolerate our interference with their slaves. This we may be assured; this, let every man, reflecting or unreflecting, set down as a truth certain as a mathematical demonstration. All our history shows it; the excitement of the present moment shows it; they cannot permit such interference—their very condition forbids it. Attached as they are to the Union, important as it is to them, and certainly it is not less essential to them than to us, still they will hold it as nothing in comparison with that which immediately touches their lives—their individual existence. The Union then, if used to disturb this institution of slavery, will be there as the “spider’s web; a breath will agitate, a blast will sweep it away forever.”



If, then, these abolitionists shall go on, if their associations shall continue to increase, if their doctrines shall spread and their measures be adopted, until they become the general sentiment and action of a majority of the people of the North, and this shall be known, as known it will be at the South, the fate of our Government is sealed—the day that sees that consummation will look only upon the broken fragments of our Union. And who will attempt to fathom the immeasurable abyss of a dissolution of the Union? Draw the lines of the new confederacies where you will—war—bitter and almost incessant war—will be the inevitable consequence. All history, and human nature itself, teach us this. Think not that our former connexion and fraternity would tend to prevent or ameliorate it. They would but impart new exasperation. As in the natural world the sweetest substances when corrupted often become the most acrid, so, in the moral world, the kindly affections, when poisoned or perverted, are turned to intense and deadly hate. Each party must at all times be in full armor, in complete preparation for defence. There must be standing armies, and fortifications, and garrisons, along the whole dividing line. During hostilities, the fears and hopes of the people would be engrossed upon the successful prosecution of the war. For this, they would be wrought upon to make any sacrifice. For self-preservation, or from inflamed passions for revenge or conquest, they would permit the concentration of more and more power in the hands of a single Executive, until, although the forms and name of a Republic might perhaps remain, the substance would be gone forever, and the people would groan under the withering curse of a military despotism.

Tell the abolitionists this; present to them in full array the terrific consequences of their attempts at immediate emancipation, and they meet all by a cold abstraction. They answer, We must do right, regardless of consequences. As if, in human action, practically affecting individuals and communities, effects and consequences were to be of no account in forming a judgment of what is right. As if they were not indispensable elements in the formation of correct views of right and duty. They assume that such a course is right, when that is the very point in controversy, and when inevitable consequences demonstrate that it must be wrong. It is a fallacy which they themselves discard when its application comes nearer home. They insist that it is right that they should



urge their doctrines for the conviction of the South. Ask them why they do not go and preach them there, where they most desire to make converts. They reply, Why, we should be in danger of our lives! Then they begin to think of consequences. So that the practical result of that proposition, which sounds so well in the abstract, is, that they are to go on regardless of consequences to others, but not without a due regard for themselves.

They insist upon immediate, instantaneous emancipation. Represent to them the present ignorance of the slaves, understanding neither the rights nor the duties of freemen, and that possessing all the violent passions of men, but without moral or intellectual discipline, if they should be loosed at once from all restraint, it would bring misery and destruction alike upon themselves and others—the reply is in general propositions. No man, say they, can be rightfully restrained of his liberty except for crime. The commencement of slavery, the original depriving of the blacks of their liberty, was theft, and robbery, and sin, and therefore every continuation of it, however changed the circumstances, is theft, and robbery, and sin, and that all sin should be immediately abandoned. Now, sir, to meet these propositions, insisted upon as universal moral truths from which there can be no exception, let me put a case not altogether imaginary—let me suppose that a free man, a good citizen, in the full possession of his faculties, is kidnapped, represented as a lunatic for the purpose of depriving him of the control of his property, and kept in confinement in a private mad-house, until, from the horrors of his situation, his mind is really alienated, reason is driven from her throne, and he actually becomes a furious madman,—would you release him then? Why not? He has committed no crime; he has only suffered excruciating agony, bodily and mental, by the crimes of others. The original restraint upon his liberty was sin. Why not then, every continuation of it, and why not leave sinning instantly by setting him at large? The answer is obvious: he is not in a condition to be liberated; he would do mischief to himself and others. And so of the slaves; if they are not in a mental condition to receive unrestrained freedom; if they would do mischief to themselves and others, the safety of society, humanity itself, demands that they should not at once be loosed from all restraint.

By thus insisting that the continuance of slavery under any

circumstances is necessarily of the same moral character as its original voluntary introduction, that it is equally criminal, they come to the conclusion that no laws that sanction or uphold it can have any moral obligation. The Constitution is the supreme law of the land. It does sanction slavery; and, if this doctrine be true, that sacred compact has always been morally null and void. Not only do they thus absolve the consciences of all good men from the support of the Constitution, but the tendency is to alienate them from it, to diminish their attachment to the Union as one that ought never to have been formed. Their arguments and language further tend to dissolve the bonds of union by weakening our regard for our Southern brethren, nay, by creating towards them feelings of detestation and abhorrence, as men daily guilty of enormous iniquity, as thieves and robbers, and with whom of course we should hold no communion.

Time was when such sentiments and such language would not have been breathed in this community. And here, on this hallowed spot, of all the places on earth, should they be met and rebuked. Time was, when the British Parliament having declared that "they had a right to bind us in all cases whatsoever," and were attempting to bind our infant giant limbs in fetters, when a voice of resistance and notes of defiance had gone forth from this hall, then, when Massachusetts, standing for her liberty and her life, was alone breasting the whole power of Britain—the generous and gallant Southrons came to our aid, and our fathers refused not to hold communion with slaveholders. When the blood of our citizens, shed by a British soldiery, had stained our streets, had flowed upon the heights which surround us, and sunk into the earth upon the plains of Lexington and Concord, then, when HE—whose name can never be pronounced by American lips without the strongest emotions of gratitude and love in every American heart—when HE, that slaveholder, (pointing to a full-length portrait of Washington,) who, from this canvass, smiles upon you, his children, with paternal benignity, came with other slaveholders to drive the British myrmidons from this city and this hall, our fathers did not refuse to hold communion with him, or with them.

With slaveholders they formed the Confederation, neither asking, nor receiving any right to interfere in their domestic relations; with them they made the Declaration of Independence, coming

from the pen of that other slaveholder, Thomas Jefferson, a name dear to every friend to human rights. And, in the original draft of that declaration was contained a most eloquent passage upon this very topic of negro slavery, which was stricken out in deference to the wishes of members from the South. With slaveholders, shoulder to shoulder, our fathers went through the Revolution, mingling their blood in every battle-field, laying their bones together upon every State from Massachusetts to Georgia; and when, by the blessing of Heaven, (for Heaven did bless them notwithstanding such communion,) they had achieved their independence and successfully terminated the war, they together formed this solemn compact, the Constitution under which we live. This was the consummation of all their labors, the fruit of all their sacrifices and suffering. It comes down to us, sealed by the death, and sanctified by the plighted faith, of our fathers; and we will abide by it, to the letter and the spirit, in all its parts; demanding for ourselves the benefits which it secures to us, and giving to the full to others the benefits and protection which it contemplates for them. Slavery existed then as now; there is no pretence that it has assumed any more aggravated form, or that the provisions in relation to it were inserted by accident or inadvertence. Few parts of the Constitution were more carefully and deliberately weighed. Nor did it arise from any indifference to the tremendous evils of this institution. Our fathers were not less devoted friends of liberty, not less pure as philanthropists, or pious as Christians, than any of their children of the present day. They did what they could, rightfully and peaceably. At the first practicable moment, by the very adoption of the frame of Government in Massachusetts in 1780, slavery was abolished throughout this State. In 1787, the Continental Congress adopted the celebrated ordinance by which involuntary servitude was forever excluded from the territory north-west of the Ohio, and which has given us the free States of Ohio, Indiana, and Illinois. By the Constitution they obtained the right to prevent any State from carrying on the slave trade after the year 1808, and at the earliest moment they prohibited that nefarious traffic, denouncing against it the penalties of piracy.

Sir, these doctrines and that language to which I have felt it my duty to advert, tending, as they do, to the disruption of the Union, the prostration of Government, and to all the horrors of a

civil and servile war, have attained their greatest prevalence and intensity within the past year, since a certain notorious foreign agent first landed upon our shores ; who comes here, not to unite his fate with ours, not as other foreigners who would make this their home, and whom we cordially receive to the participation of all the immeasurable blessings of free institutions ; but he comes here as an avowed *emissary*, sustained by foreign funds, a *professed agitator* upon questions deeply, profoundly *political*, which lay at the very foundation of our Union, and in which the very existence of this nation is involved. He comes here, from the dark and corrupt institutions of Europe, to enlighten *us* upon the rights of man, and the moral duties of our own condition. Received by our hospitality, he stands here upon our soil, protected by our laws, and hurls “ fire-brands, arrows and death,” into the habitations of our neighbors, and friends, and brothers,—and when he shall have kindled a conflagration which is sweeping in desolation over the land, he has only to embark for his own country, and there look securely back with indifference or exultation upon the wide-spread ruin by which *our* cities are wrapt in flames, and *our* garments rolled in blood. This is our country—the country of our children, and our children’s children. *We* can never separate from it. Its fate must be our fate. If the storm comes, we must abide its pelting ; if convulsions come, we must be in the midst of them. To *us*, then, it belongs, to judge of the exigencies of our own condition, to provide for our own safety, and perform our own duties, without the audacious interference of foreign emissaries. If he have really the philanthropy which he professes, and would remove evils by doctrines and language, in their nature revolutionary, which touch the very existence of established government, let him go back to Europe, and there, at his own home, undertake to redress the wrongs of India, to stay the oppression of Ireland, to relieve England from tithes and taxation, to the prostrating of the triple power of the priesthood, the aristocracy, and the throne,—and he would perhaps receive in his own person a practical lesson of the degree of liberty there enjoyed.

With our own fellow citizens, who have united in these associations, those who are indeed of us, and with us, and embarked together in the same ship, I would most affectionately commune and earnestly reason. Among them I see the names of men in



whose purity and piety I have the utmost confidence, and I doubt not there are many others equally entitled to regard. I would beseech them to discard those dangerous abstractions which they adopt as universal rules of human conduct, without regard to time, condition, or circumstances, which darken the understanding and mislead the judgment, and urge them forward to consequences from which they will shrink back in horror. I would ask them to reflect that humanity and benevolence are not to be promoted by measures of insurrection and massacre; that the religion they profess is not to be advanced by forgetting the precepts and the example of their Divine Master. Upon that example I would ask them to pause. He found slavery, Roman slavery, an institution of the country in which he lived. Did he denounce it? Did he attempt its immediate abolition? Did he do any thing or say any thing which could, in its remotest tendency, encourage resistance and violence? No, his precept was, "Servants, (slaves,) obey your masters." And one of his immediate apostles sent back the runaway slave, *Onesimus*, to his master *Philemon*, with an affectionate epistle. Not that the Savior of the world approved of slavery any more than he did the crime of the woman, who, taken in the very act, was brought before him, and whom he declared that he did not condemn, but told her to go and sin no more. It was because he would not interfere with the administration of the laws, or abrogate their authority. He did not attempt the immediate removal of any civil institutions of the country, however unjust and oppressive, but sought only to lay down precepts, and establish a religion, which, as it extended and strengthened, should, by its beneficent influences, ultimately, but gradually, quietly and peaceably remove them all. So let it be with us. Let it be our work, humbly and fervently, to endeavor to maintain our free institutions, with the strong assurance that, if these are sustained, they will in due time produce by mild and moral means their natural effects of universal liberty. I would beseech these gentlemen to reflect whether the great cause of human liberty is to be advanced by putting in jeopardy our Government and our Union, under which we have prospered as no people has ever before prospered, and which is shedding upon the nations of the earth a light which no political luminary has ever before shed. What though there are abodes of darkness which it has not yet illuminated? What though there are fetters on



human limbs which its sweet influences have not yet dissolved? Would you therefore destroy it? Would you blot out the sun because it has not yet melted the polar ices, and covered the whole earth with verdure? Would you banish Christianity itself because it has not yet produced its perfect work of universal peace, benevolence and joy?



HARVARD CENTENNIAL CELEBRATION.



## CENTENNIAL CELEBRATION OF HARVARD UNIVERSITY.

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Two centuries from the foundation of Harvard College ended on the eighth day of September, 1836. The event was celebrated by the Alumni, and Officers of the University, in a manner worthy of the occasion. Such previous notice had been given, as to enable Graduates to attend from the most distant parts of our country, and they came in great numbers. It was a most memorable re-union of College friends. For the dinner, a tent was erected within the College grounds, large enough to seat all the Alumni and Officers who attended, together with several distinguished guests. The Hon. Edward Everett, then Governor of the Commonwealth, presided. After Addresses from him, and several of the College officers, and Invited Guests, the President called up some Graduate of each of the former classes. Mr. Sprague, of the class of 1812, spoke as follows.





# SPEECH

AT THE

CENTENNIAL CELEBRATION OF HARVARD UNIVERSITY,  
SEPTEMBER 8, 1836.

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OCCASIONS like the present carry us back to the olden time. It has been well said, that we ought frequently to recur to first principles ; and it is no less useful to recur to the history of the men in whom great principles have been embodied and illustrated. I delight to contemplate the character of our Pilgrim Fathers,—their high resolve, their indomitable perseverance, their spirit of self-sacrifice, contrasted, as they are, with that temporizing expediency of which we see too much at the present day. Policy told them to bend before the blast ; expediency never would have landed them on these shores ; and the result of their labors is an eminent illustration of the truth, that “ that policy which strikes only while the iron is hot, will, in the end, be exceeded by that perseverance which makes the iron hot by striking.” They labored, and we have entered into their labors. We possess the inheritance of their principles. Republicans in church government, they have given us religious freedom ; republicans in politics, they have given us our political institutions ; true citizens of the republic of letters, they have given us our schools and our University. Yes, those men, who have been sometimes called narrow-minded and illiberal, at a time when they had scarcely yet

made their bed in the wilderness, while their log cabins were nightly surrounded by the howls of savage beasts and more savage men, while their path was beset by day, and they went forth to fell the forest, with the axe in one hand, and the musket in the other; even then, amid privation, suffering, and want, with an expansive and far-seeing benevolence, they contributed, from their scanty and hard-earned substance, to erect here an altar to good letters.

As a devoted son of the Old Colony, the blessed mother of us all, I would not have her passed by in silence on this occasion, and should say something of the deep and early interest which she took in our University, but that I see before me the President of the Pilgrim Society, the historian of Massachusetts, a lineal descendant of that John Alden who first set foot on the Rock of Plymouth. To him this theme appropriately belongs; and, whenever the Old Colony is named, I would say to him as a fair lady once said to his ancestor. Her speech, unlike, I fear, that to which you are now listening, was short, and to the purpose; but needs some preface in order to be fully understood.

Miles Standish was the military hero of the Puritan Pilgrims. The historian describes him as a man of small stature, but of great spirit. Being unmarried, he found, as Adam did before him, that, in a new world at least, "it is not good for man to be alone," and, therefore, formed the abstract resolution to take to himself a wife. He had cast his eyes on a fair damsel by the name of Priscilla Mullins; but such were his high engagements, that he thought he could not devote his personal attention to what seemed to him so subordinate a matter as matrimony, and he therefore deputed his younger friend, the aforesaid John Alden, to make the proposal, and settle the preliminaries. He undertook the commission, and, in all good faith, proposed and recommended his friend. But the lady, it seems, had an eye of her own, which was better filled with the comely form before her, than even by the glare of the military hero, and her only response was, "Alden, why don't thee speak for thyself?" Upon this hint he spake; and with what effect, the Alden Bradfords and Bradford Aldens of the present day are living witnesses.

The name of Priscilla Mullins carries us back to our Pilgrim Mothers, whose exalted and enduring virtues have been less emblazoned than they deserve, and "without whom," it has been

well asked, "what better should we have been for our Pilgrim Fathers?" Having toasted our Alma Mater so much in particular, and paid some respect to our mothers in general, it would be high treason to pass in silence by the daughters, the fair pilgrims of the present generation; especially, since to them we are indebted for the adorning of this pavilion, and we of the Committee had the misfortune to find it impossible to comply with the request to arrange for their presence at these festivities. But upon a theme on which it is so dangerous to indulge, I will trust myself only to offer what so appropriately belongs to the sex,—a sentiment :

"THE LADIES—We will say of them what Cicero says of Letters:—  
'Adolescentiam alunt, senectutem oblectant, secundas res ornant, adversis solatium præbent, delectant domi, pernoctant nobiscum.'"





CHARGE TO THE GRAND JURY.



## RESISTANCE TO LAW. CONSCIENCE.

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THE Fugitive Slave Law, passed in September, 1850, was received, in Massachusetts, with almost universal regret and disapprobation. With not a few, it produced great excitement and exasperation. Some openly avowed a determination to resist it by violence, declaring that it was a matter of Conscience not to permit it to be executed. In the following February, a negro, by the name of Shadrach, was arrested in Boston, as a Fugitive Slave, and carried into the United States' Court Rooms for examination before a Commissioner. A mob broke into the room, took him by force from the Officers of the Law, and effected a rescue. At the opening of the next regular term of the District Court, in March, Judge Sprague delivered the following Charge to the Grand Jury.



# CHARGE TO THE GRAND JURY,

MARCH, 1851.

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## GENTLEMEN OF THE GRAND JURY:

THE office you now hold demonstrates that the Constitution has established, not a mere confederacy of States, but a government acting directly upon individuals, with a Legislature to enact laws, a Judiciary to expound them, and an Executive to enforce them. Under this government, the people of the United States have enjoyed a greater degree of liberty, prosperity, and happiness, than have been enjoyed by any other people in the history of the world. To preserve this government, it is necessary that its laws should be faithfully executed, and you are now called upon, under the highest sanction, to aid in this indispensable work.

I think it proper at this time to call your attention particularly to that part of the criminal code, which prohibits and punishes forcible resistance to the laws. Government is so great a blessing, that the highest crime which can be committed, is treason. This is defined by the Constitution itself in the following words: "Treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort." What amounts to levying war? This question arose soon after the adoption of the Constitution, in the several trials of Mitchell, Vigol, and Fries, for being engaged in the Pennsylvania Insurrection, against the law imposing a duty



upon distilled spirits, under the administration of Washington, and subsequently, in the trial of Aaron Burr, in the year 1807, and in the case of the United States *vs.* Hoxie, in the year 1808. These were all trials in the Circuit Court.

The only case which has come before the Supreme Court, was that of *ex parte Bollman, et al.*, 4 Cranch, 125. In this case it was decided that "if a body of men be actually assembled for the purpose of effecting by force a treasonable purpose," this is levying war. What is a treasonable purpose? If the object be entirely to overthrow the government, at any one place, by force, as at New Orleans, which is the case mentioned by the Supreme Court, that is a treasonable purpose. But a conspiracy to do this, and actually enlisting men who never assemble, is not sufficient to constitute the crime of treason. There must be an actual assemblage of men for the purpose of carrying the conspiracy into effect by force. So also, it is a treasonable purpose, if the object be to prevent, by force, the execution of any one law of the United States, in all cases—for it is entirely to overthrow the government as to one of its laws. And if there be an actual assemblage of men, for the purpose of carrying such an intention into effect, that is, of acting together, and preventing, by force, the execution of the law generally—in all cases it will constitute a levying of war.

But the sudden outbreak of a mob, or the assembling of men in order by force to defeat the execution of the law, in a particular instance, and then to disperse, without the intention to continue together, or to re-assemble for the purpose of defeating the law generally, in all cases, is not levying war. If war be actually levied, persons may be guilty, although not present with the force actually assembled. "All those who perform any part, however minute, or however remote from the scene of action, and who are actually leagued in the general conspiracy, are to be considered as traitors."

There are minor offences created and defined by Acts of Congress alone. By Statute of the 30th of April, 1790, chapter 9, section 22, it is enacted, "That, if any person or persons shall knowingly and wilfully obstruct, resist, or oppose any officer of the United States, in serving or attempting to serve or execute any mesne process, or warrant, or any rule or order, of any of the Courts of the United States, or any other legal or judicial writ or

process whatsoever, or shall assault, beat or wound any officer or other person, duly authorized in serving or executing any writ, rule, order, process, or warrant aforesaid, every person so knowingly and wilfully offending in the premises, shall, on conviction thereof," be punished by fine and imprisonment.

Thus you perceive, that, for more than sixty years, indeed, from the foundation of the government, it has been a criminal offence to resist, or oppose, or obstruct the Marshal in the execution of a warrant or other legal process; and so plain is the utility and necessity of this provision, that, during all that time, no voice has been raised against it. So far from impairing the energy with which the laws are to be executed, the people, by their legislation, have added new sanctions. Thus, by Statute of March 2d, 1831, chapter 99, section 2, it is enacted, "That, if any person or persons shall corruptly, or by threats or force, endeavor to influence, intimidate, or impede any juror, witness, or officer, in any court of the United States, in the discharge of his duty, or shall corruptly, or by threats or force, obstruct or impede, or endeavor to obstruct or impede, the due administration of justice therein, every person or persons so offending, shall be liable to prosecution therefor, by indictment."

This salutary enactment to secure the free course of law has been in force for nearly twenty years without objection. But we have recently heard that not only should the Courts be impeded in administering the law, but that the Marshal should be obstructed and even resisted by force in the execution of legal process, because of a recent statute providing for the arrest and delivering up of fugitives from labor. It is to be observed that this statute subjects no person to arrest who was not before liable to be seized and carried out of the State; for, ever since the adoption of the Constitution, these same persons have been liable to be taken and carried away by those from whose service they had escaped. For a pre-existing right created by the Constitution and affirmed by the Supreme Court of the United States, Congress has provided a new remedy by legal process to be executed by a public officer, and has added penal sanctions more effectually to ensure the execution of the law.

If it have not all the safeguards we could wish, so neither had the statute of 1793, passed by the fathers of the Constitution, with

the approbation of Washington, and sustained by the people for more than half a century.

The Constitution commands that fugitives from labor shall be delivered up. The Supreme Court have decided that it belongs to Congress to provide the means. Congress have enacted this law. It is imperative, and will be enforced. Let no man mistake the mildness and forbearance with which the criminal code is habitually administered, for weakness or timidity. Resistance must make it sternly inflexible.

Discussion is free. Men of all classes and of every shade of opinion may, by argument or even declamation addressed to the reason or the passions, endeavor to impress new views upon the public mind. But if, in their opposition to the expressed will of society, they pass from words to deeds, and embody mischievous doctrines into criminal acts of resistance to law, whoever they may be, and whatever may be their position or their ultimate purposes, they must sooner or later find that the law is irresistible and overwhelming. The people have been so long accustomed to absolute repose and security under the quiet administration of law, that they are not easily brought to believe that it can be obstructed, much less to contemplate the consequences of its overthrow. But let them be startled by acts of violence and systematic resistance, let it be brought home to them as a practical question, whether they will live under law, administered by responsible public agents, or under the dominion of a mob, impelled by passion, guided by no rule, and subject to no restraint, and they will rush to the support of the constituted authorities, and indignantly repress the spirit of anarchy.

The statute of 1850, chapter 60, after providing that the claimant of a fugitive from labor may have a warrant for his arrest, or seize him without process, proceeds, in the seventh section, to enact "That any person, who shall knowingly and willingly obstruct, hinder or prevent such claimant, his agent or attorney, or any person or persons lawfully assisting him, her or them, from arresting such fugitive from service or labor, either with or without process as aforesaid, or shall rescue, or attempt to rescue, such fugitive from service or labor, from the custody of such claimant, his or her agent or attorney, or other person or persons lawfully assisting as aforesaid, when so arrested, pursuant to the authority herein given and

declared ; or shall aid, abet, or assist such person so owing service or labor as aforesaid, directly or indirectly, to escape from such claimant, his agent or attorney, or other person or persons legally authorized as aforesaid ; or shall harbor or conceal such fugitive, so as to prevent the discovery and arrest of such person, after notice or knowledge of the fact that such person was a fugitive from service or labor as aforesaid, shall for either of said offences be subject to " fine and imprisonment.

I have thus, as I proposed, called your attention to certain acts of Congress and provisions of the Constitution. They are the law of the land, and it is our most solemn duty faithfully to execute them. In the words of the oath which you have just taken, you are to do this " without fear, or favor, affection, or hope of reward," presenting " things truly as they come to your knowledge, according to the best of your understanding."

Here I might close ; but, as great efforts have been made to convince the public that the recent law cannot be enforced with a good conscience, but may be conscientiously resisted ; and an impression may have been made on some of your number, thus presenting an obstacle to the discharge of a plain legal duty, I deem it proper to advert briefly to the moral aspects of the subject.

In this part of the country, the convictions of our understanding, our moral sentiments, and our religious opinions, are adverse to the institution of slavery. Hence some are ready to conclude, in the first place, that the provision of the Constitution for delivering up fugitive slaves must be morally wrong ; and, in the next place, that laws made to carry it into effect are to be disobeyed and resisted.

Neither of these propositions legitimately follow from the premises.

As to the first. The States, without the Constitution, would be to each other foreign nations. The first duty of every nation is the preservation and protection of its own citizens. It is for this, primarily, that political societies are formed and their restraints submitted to. If, then, any nation finds that hospitality to foreign fugitives is inconsistent with its own peace and safety, it has a right to refuse such hospitality, and to say, to all such foreigners, We cannot receive you amongst us, and if you come, we must deliver you up to the dominion of your own government ; and it may rightfully make a compact with such government for



such delivery. Whether the peace and safety of the nation do in fact require or authorize such compact, it is for the nation itself to decide, and its decision is to be submitted to and its engagements faithfully performed.

Those, therefore, who have the strongest convictions of the immorality of the institution of slavery are not thereby authorized to conclude that the provision for delivering up fugitive slaves is morally wrong, or that our fathers in Massachusetts did not act wisely, justly, humanely, in acceding to the compacts of the Constitution.

But, secondly, even those who go to the extreme of condemning the Constitution and the laws made under it, as unjust and immoral, cannot, even upon such an assumption, justify resistance. In their views, such laws are inconsistent with the justice and benevolence, and against the will, of the Supreme Law-giver, and they emphatically ask, Which shall we obey, the law of man, or the will of God? I answer, Obey both. The incompatibility which the question assumes does not exist. Unjust and oppressive laws may indeed be passed by human governments. But if Infinite and Inscrutable Wisdom permits political society having the power of human legislation to establish such laws, may not the same Infinite and Inscrutable Wisdom permit and require the individual, who has no such power, to obey them?

Can you say that it is his will that we shall rise up in forcible resistance, overthrow the power of the Government, and, instead of the peace and security of organized society, introduce the dominion of anarchy and violence? Are such the appointed means for their abrogation? Unjust laws have always existed. Until a recent period, poor and honest debtors were even here oppressively imprisoned; and, in England, stealing, to the value of more than a shilling, was punishable with death, and their code numbered more than one hundred and fifty capital offences. The wise and the good saw that these laws were cruel and unnecessary. They did not rush to arms, or counsel disobedience. But, by the diffusion of knowledge, by reason and persuasion, they changed the public mind, and the laws were peaceably ameliorated. The fruits of justice and benevolence, like the fruits of the natural world, are to be matured by mild and genial influences. The punishment of death is still inflicted by our laws.

Many good men firmly believe that society has no right to take



the life of one of its members. With them capital punishment is the highest injustice and the greatest wrong that can be inflicted. But they do not counsel resistance, to convulse society and overthrow the government, but quietly and conscientiously submit to the peaceful execution of the laws.

But we are told by some, that, the law being morally wrong, conscience tells them to resist it. Conscience, indeed, is to be revered and obeyed, but still we must remember that it is fallible, especially where the rights of others are concerned, and may lead us to do great injustice. Some have an impression that it is the divinity within them, an unerring and infallible guide. Hence they cannot believe or conceive that opposition to their views can be conscientious. It is this lurking fallacy, this tacit assumption of personal infallibility, that makes them intolerant towards others, and inaccessible to argument.

I speak not of those who believe that they have special inspiration from above, that a miracle has been wrought for their guidance. Such are beyond the scope of human reason, and fit subjects either of consecration or a mad-house, according as their belief is founded on reality or delusion. But, with those who are under the dominion of the established laws of the moral and intellectual world, conscience is fallible. The annals of the world abound with enormities committed by a narrow and darkened conscience. A man may incur great moral guilt, not indeed by following his conscience, but by neglecting the means of rectifying and enlightening it. Its dictates are varied, not only according to moral constitution, but the intellectual power and extent of information of the individual. The purer the motive the more extensive the knowledge, and the greater the mental ability, the more enlightened will be the conscience, and the more correct its decisions.

The moral faculty or moral judgment being thus fallible, there may be a conflict of consciences. Let me present an illustration. A ship arrives with sick passengers. One class of men insist that the disease is contagious, and that they shall not be permitted to land and spread a general pestilence. Another class insist that it is not contagious, and that it would be cruelty to compel them to remain on ship-board, aggravating their sufferings and their danger. With both it is a question of humanity—of conscience. Again, certain strangers seek an asylum amongst

us. One class of our citizens see in them only fugitives from oppression, whom we can easily and securely receive and protect. Another class believe that they bring with them, not physical but moral contagion, that their presence will endanger the public peace and individual safety, that it may embroil us with other States, and bring upon us the sufferings and horrors of external and internal war and convulsions. The one class urge the obligations of hospitality and benevolence, the other the obligations of self-preservation and the sacred duty of preserving those whom nature and society have committed to their protection.

Both are equally sincere, conscientious, and resolute. Which shall yield? Is there no appeal but to force? I answer, yes. And the arbiter must be society,—organized society,—pronouncing its decision through its regularly constituted agents. This is the moral judgment, the embodied conscience, of the political community. To this not only is each individual bound to submit, but it is a new and controlling element in forming his own moral judgment. An act which before may have been innocent is now criminal, and its commission not only opposed to the will, but subversive of the order, peace, existence of the political society.

Submission is a moral duty. This is as certain as that the Creator made man a social being, and designed that he should live, not in perpetual anarchy, but in peace and security; for human government is the only means which Infinite Goodness has provided, for preserving us from unceasing conflict and violence. To submit to the law of the land is, then, to obey the will of God.

It may be asked, is resistance never justifiable? Is there no exception? I answer, yes! When oppression present and prospective is so great as to justify a resort to the ultimate right of revolution. But this is not to be done from impulse or feeling, but from the calm and careful consideration of the dangers and difficulties of the proposed remedy. A wise man will reflect that evils, great evils, must exist under every human government; that a perfect fabric cannot be made of imperfect materials, and that, whatever he may attempt, he must still work by and with fallible man, with all his blindness, weakness and passion.

If, after a deliberate contemplation of the convulsions and miseries attending the overthrow of the existing government, and the hazards and uncertainties of establishing a better on its ruins, he firmly believes the permanent happiness of the community requires

the attempt, he may conscientiously make it. Under a despotism such a case may occur not unfrequently, but we can hardly suppose it to exist in a republic, where the laws are made by the people themselves, through agents freely appointed for short periods by frequent elections.

In our own country, if there be any who, contemplating the infirmities of our nature, and the history of the race, looking at what has been accomplished in all ages that have passed, and what is now the condition of mankind under all other political institutions, and then looking at our own government, its history and its hopes, its past performance and future promise, and then desire its destruction in the vain and desperate hope of establishing a better in its stead, they must be inaccessible to reason or remonstrance, and of that unfortunate class in whose minds judgment is dethroned, and monomania holds usurped dominion.



REMARKS IN THE UNITED STATES' .  
CIRCUIT COURT, ON THE DEATH  
OF MR. WEBSTER.





## DEATH OF MR. WEBSTER.

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MR. WEBSTER died at Marshfield, in November, 1852. The Circuit Court of the United States was then sitting at Boston, Judges Curtis and Sprague being upon the bench. At a meeting of the Members of the Bar, Resolutions appropriate to the occasion were passed, and were subsequently presented to the Court by the District Attorney, George Lunt, Esq., accompanied by an Address from him, and also by Addresses from Charles G. Loring, Rufus Choate, and George T. Curtis, Esq. In response to which, Judge Sprague spoke as follows.



## REMARKS

ON THE DEATH OF MR. WEBSTER, IN THE UNITED STATES  
CIRCUIT COURT, IN NOVEMBER, 1852.

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THE event we deplore is solemn, is appalling, not only as a calamity, and for the void which it creates, but still more, as bringing with it an overwhelming sense of the nothingness of human power. Others may have excelled Mr. Webster in some intellectual endowment, but, in the combination of the statesman, the orator, the diplomatist, the jurist, and the advocate, the present age has not produced his equal, and no age his superior.

It was my lot to be associated with him in both branches of the national Legislature, and as a member of the same political party, of the same profession, and from the same section of the country. It is now nearly twenty-seven years since I entered the House of Representatives, of which he was then a member. The preëminence asserted for him by his friends, was not then conceded by his opponents. But it was soon observable that, whenever a debate arose in which Mr. Webster took an earnest part, even those who were most strenuous in denying his general superiority, were constrained to admit that, upon that occasion, he had excelled all others. These occasions at length became so multiplied, with so many opponents, and upon such a variety of topics, that, in spite of sectional jealousy, or party prejudice and intolerance, and of personal partialities and local pride, the admission of his superiority was forced upon unwilling minds, and from

reluctant lips, and he stood confessed by all, unequalled in intellectual power. In the most violent times, under the most exasperating attacks, personal and political, he never transcended the limits of good taste or parliamentary decorum, never violated the courtesy and dignity of senatorial debate.

Should any be disposed to say of him as was said of Burke—

“ Born for the universe, he narrowed his mind,  
And to party gave up what was meant for mankind,”

it should be answered also, that what he gave to party he gave to mankind, for he established principles, and elucidated truths, of universal application and eternal duration.

No man can read his speeches without clearer views upon great political problems, without a more profound comprehension of the true foundation upon which civil society should be erected, and the just rules by which its affairs should be conducted.

No candid mind can rise from the perusal of his works, without a more just and elevated appreciation of our own Constitution and Government, a warmer and more exalted patriotism, without being a truer and firmer friend of real republicanism, of justice, of law, of order, of universal, regulated liberty.

The present occasion does not permit me to verify these general remarks, by specific and detailed references, nor has the time arrived when his later efforts can be dispassionately considered.

But there is one speech made so long since as to be now matter of history, and involving no topic of present excitement, of which I have been especially requested to speak, because it is the most celebrated, and of the then Senators from New England, I am, with one exception, the only survivor; and it is proper to speak of it here, and now, because a great vital question of Constitutional law was by that speech settled as completely and irrevocably as it could have been by the greatest minds in the highest judicial tribunals.

Mr. Foot's resolution involved merely the question of limiting or extending the survey of the public lands. Upon this, Mr. Benton and Mr. Hayne addressed the Senate, condemning the policy of the Eastern States, as illiberal towards the West. Mr. Webster replied in vindication of New England and the policy of the government. It was then that General Hayne made the assault which that speech repelled.



It has been asked if it be possible that that reply was made without previous preparation. There could have been no special preparation before the speech began to which it was an answer. When General Hayne closed, Mr. Webster followed, with the interval only of the usual adjournment of one night.

His reply was made to repel an attack, sudden, unexpected, and almost unexampled, an attack upon Mr. Webster personally, upon Massachusetts and New England, and upon the Constitution.

There can be little doubt that this attack was the result of premeditation, concert, and arrangement. His assailant selected his own time, and that too, peculiarly inconvenient to Mr. Webster, for, at that moment, the Supreme Court were proceeding in the hearing of a cause of great importance, in which he was leading counsel. For this reason, he requested, through a friend, a postponement of the debate. General Hayne objected, and the request was refused. The assailant, too, selected his own ground, and made his choice of topics, without reference to the resolution before the Senate, or the legitimate subject of debate. The time, the matter, and the manner indicate that the attack was made with the design to crush a formidable political opponent. To this end, personal history, the annals of New England and of the federal party, were ransacked for materials. It was attempted to make him responsible, not only for what was his own, but for the opinions and conduct of others. All the errors and delinquencies, real or supposed, of Massachusetts and the Eastern States, and of the federal party, during the war of 1812, and throughout their history, were to be accumulated on him. It was supposed that, as a representative, he would be driven to attempt to defend what was indefensible, and to uphold what could not be sustained, and, as a federalist, to oppose the popular resolutions of ninety-eight.

General Hayne heralded his speech with a declaration of war, with taunts and threats, vaunting anticipated triumph, as if to paralyze by intimidation; saying that he had something rankling in his breast, and that he would carry the war into Africa, until he had obtained indemnity for the past, and security for the future.

Mr. Webster evidently felt the magnitude of the occasion, and a consciousness that he was more than equal to it. On no other occasion, although I have heard him hundreds of times, have I seen him so thoroughly aroused. Yet, when he commenced, and throughout the whole, he was perfectly self-possessed and self-

controlled. Never was his bearing more lofty, his person more majestic, his manner more appropriate and impressive.

At first, a few of his opponents made some show of indifference. But the power of the orator soon swept away all affectation, and a solemn, deep, absorbing interest was manifested by all, and continued even through his profound discussion of Constitutional law.

When he closed, the impression upon all was too deep for utterance, and, to this day, no one who was present has spoken of that speech, but as a matchless achievement, and a complete triumph. When he sat down, General Hayne arose, and endeavored to re-state and reinforce his argument. This instantly called forth from Mr. Webster that final condensed reply which has the force of a moral demonstration.

The value of that speech cannot be measured, without a just appreciation of our Constitution, and of Republican Government. Nullification had become formidable. It had been practically adopted in high places, and was sustained by several States, and some of the ablest minds of the South, and was daily gaining strength, as the offspring of the resolutions of ninety-eight. By this single effort, that deadly heresy was prostrated and crashed forever.

No speech, ancient or modern, has, within the same time, convinced so many minds, and produced so great and salutary results. It was not addressed merely to the enlightened and reflecting audience around him, but to this great reading nation, and to the civilized world. If the doctrines of General Hayne had prevailed, this Union would have been shattered into fragments; but Mr. Webster and his doctrines have triumphed, and our Union remains, in all its magnificence and beneficence.

When Mr. Webster first entered the State Department, our Foreign affairs, particularly with Great Britain, were complicated and critical in the extreme. Adverse military forces had been gathering upon our Northeastern Boundary. In relation to the affair of the *Caroline*, an unsound doctrine of international law had been put forth on our part, which, if it had been carried out by the threatened punishment of the soldier McLeod, would immediately have brought a hostile fleet upon our coast. The matter of the *Creole*, too, was a further disturbing cause. Mr. Webster extricated the Government from the false position in

which it had been placed by his predecessor, by frankly conceding what we could not justly maintain, and planting himself only upon the right.

His State papers, during the administration of Harrison and Tyler, are unsurpassed in power, truth and propriety. His diplomacy was consummate. It attained complete success, and entitled him to the gratitude of his country and the world. If his principles and practice should be followed by all nations, war would cease, and the reign of peace be universal.

Men distinguished in political life have often attempted in vain to command success at the bar, while great lawyers have signally failed in a parliamentary career. Distinct powers are required for each. For the one, the power of resolving a question into its elements; and for the other, the power of combination, of dealing with masses, and of holding great subjects in a comprehensive grasp. Mr. Webster possessed both preëminently.

As a lawyer, he, for nearly thirty years, stood at the head of the bar of the United States, without a rival; while at the same time he maintained his preëminence as a statesman and an orator, in the halls of Congress, or at the head of a Cabinet. In consultation, no man was more weighty; in trials, at the bar, no man was his equal. He possessed every requisite for success in the highest degree,—eloquent, sagacious, fearless, circumspect, ready, learned and profound. No other lawyer has so ably expounded the constitution, and no one has done so much to maintain it upon its true foundation, and in its just proportions. Superior as he must have felt himself to be, to those whom he generally addressed, that superiority was never asserted in his manner towards the bench, which was uniformly respectful and deferential. He wished the law to be revered, and he knew that reverence for the law could not be maintained without respect for the tribunals by which it is administered. Faithful to his clients, he was also true to the court, and never, for temporary success, exerted his great powers to subvert fundamental principles, or confound the rules of right. He never used his gigantic strength to remove the landmarks of the law. He dealt with facts as an advocate, but with the law as a jurist. It was with him a science upon which depended public and private right, social order, the peace, the existence of civilized society. I leave to the learned Justice of the Supreme Court, who has been so recently and intimately associated with him at

the bar, to present a more complete delineation of his forensic character.

Extraordinary as were the natural gifts of the great departed, he did not trust to them alone.

He was laborious, but not with incessant toil. He gave himself frequent intervals of relaxation and repose; but when his mind was brought into earnest exercise, it worked with an intensity and effect that could not be exceeded. One part of his intellectual training particularly recommends itself to the young men of his own profession. When any question was presented to his mind, he was not content to examine it only to see what could be said on his own side, or to maintain a thesis, but he investigated the subject on all sides, sounded its depths, explored its foundations, and, having found the truth, laid it up as a treasure to be kept forever. It was thus that he amassed that amazing intellectual wealth, upon which he could draw at any time as an exhaustless mine. He had a profound respect and reverence for the Christian religion and its ordinances. Whenever he spoke of them, it was in deep tones of solemnity and awe. No one who knew him would presume to speak of them lightly or thoughtlessly in his presence.

I had hoped that, when the time should have arrived for his withdrawal from the active scenes of political life, he would, in his rural retreat, have devoted his last years to the investigation and contemplation of the momentous subject of revelation and a future life, and that he would have given to the world, the fruits of the inquiries and reflections of his great mind. Such a work would have been of transcendent value, and a graceful close, and the crowning glory of the labors of his life. But Infinite Wisdom and Infinite Goodness have ordered it otherwise, and we have only to bow in humble submission to the dispensation.























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